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Beyond the pale:

Myths and realities about
the BTC development model

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The research conducted by Manana Kochadze, CEE Bankwatch Network

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CEE Bankwatch Network

Jicinka 8, Praha 3, 130 00

Czech Republic

Tel: +32 2 542 01 88

Fax: +32 2 537 55 96

Email: main@bankwatch.org

www.bankwatch.org

Editing: Greig Aitken, CEE Bankwatch Network

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Introduction

The Caspian Sea's oil reserves are considered to be at least as large as those in the North Sea, which currently supplies about eight percent of the world's oil. The Baku-Tbilisi-Ceyhan main export oil pipeline, along with the Baku-Tbilisi-Erzrum pipeline, represents a new concept of energy corridor development intended to connect the Caspian Sea coast to the Turkish Mediterranean in order to provide oil and gas for the European market.

The 1,770-km long Baku-Tbilisi-Ceyhan (BTC) pipeline led by British Petroleum is set to transport up to one million barrels per day (bpd) – 50 million tonnes per annum – of crude oil from an expanded Sangachal terminal near Baku in Azerbaijan, through Georgia to a new marine terminal at Ceyhan in Turkey on the Mediterranean coast. The first tanker from Ceyhan left on May 27, 2006.

While the political significance of the project has been recognised by a number of western governments, the project sponsors clearly recognise that the BTC option makes sense only "if 'free money' is offered by governments to build the line". The IFC, EBRD, US Ex-Im, OPIC, and JBIC are supporting the project financing and covering up to 70 percent of the project-associated costs.

What are and what will be the impacts of the BTC pipeline and associated oil development in the region? Does the project help to overcome poverty, pollution and corruption, and bring good governance and a brighter future to the region, or will it deepen the existing gap between rich and poor, increase environmental pollution and worsen the human rights situation? These are major questions that will be addressed by this paper.

International financial institutions (IFIs) and Western governments have spoken about the significance of democratic institution-building in the Caspian countries, a process which is expected to take place gradually, alongside oil infrastructure development. Nevertheless, there has been little doubt as to which comes first, in terms of both timeframe and importance.

The series of official opening ceremonies of the BTC pipeline have been ongoing for more than a year. The gathering of VIPs from different countries, opening speeches and congratulations fails to diminish the unacceptable risks that the BTC pipeline poses to the human and natural environment of the region, due to the shortcomings of the project's planning and poor

¹ "Wisdom of Baku pipeline queried", *Financial Times*, November 4, 1998

construction process, as well as the disregarding of international standards, law and practice, including the EBRD and the IFC's safeguard policies.

While the BTC project has been and still is considered to be a model of development and poverty alleviation by the IFC and the EBRD, the reality in the region is becoming ever more acute. Communities along the pipeline route are experiencing a range of problems, including the loss of incomes and increased livelihood costs due to construction damage and improper compensation. They have problems with health and access to clean water, as well as damaged infrastructure, while the promised development impacts and poverty alleviation have melted like snow. A number of unresolved issues – such as the problems of transparency and endemic corruption, violations of European Human Rights Law, the uncertain impact of the Host Government Agreements on the affected countries' further development, and the pipeline's negative environmental, health and social impacts - still require solutions.

The BTC pipeline is a typical example of “business as usual”, as the IFIs, national governments and the project sponsor continue securing their interests at the expense of the political and socio-economic rights of ordinary citizens, at the same time using public money to promote transnational corporate interests.

The present report aims to provide an understanding of why the BTC pipeline should not be considered as a model of development and poverty alleviation for future such projects; how it specifically breaches existing IFC² and EBRD standards, as well as other international standards that BTC Co has committed to applying (including OECD Guidelines for Multinational Enterprises, EU requirements³); and provide some insights on what are the discrepancies between the rhetoric of BP and the IFIs and their practice in the field.

The report will focus on the problems of Azerbaijan and Georgia as per the existing experience and detailed knowledge of Bankwatch of these two countries. However, we will also address a number of the problems associated with the BTC pipeline in Turkey, based on our knowledge and experience.

² Specifically how the project stood up to IFC and EBRD standards (these include environmental impact assessment (EIA), and international industry best practice). For example, IFC board briefing (page 40, para 1) refers to the fact that the IGA requires that the technical, safety and environmental standards are consistent with international standards within the petroleum industry and shall in no event be less stringent than those generally applied in the EU.

³ “The project is legally obliged to follow environmental standards that are not less stringent than those of the EU” Para 3.3. , Citizen's Guide to the BTC Project Agreements: Environmental, Social and Human Rights Standards, 2003, BTC Co.

Part I. General impacts of the BTC pipeline



1. History of the project

The US National Energy policy developed by President Bush in 2000 directly calls for support for the development of new oil exploration around the Caspian region, with a particular emphasis on the new oil and gas pipeline construction from the Caspian through Georgia in Turkey. According to Bill Richardson, former US Energy Secretary: "This is not just another pipeline; it is a strategic framework that advances America's national security interests. It is a strategic vision for the future of the Caspian region."⁴

The Caspian Sea's oil reserves became the winning card in the energy security game, with the hope that some 3.7 million barrels per day of oil could be produced by 2010, rising to 6.5 million barrels per day by 2020⁵. In addition, natural gas production could reach over 6 trillion cubic feet per year by 2010. The Eurasian crossroad has thus entered prominence politically and economically, with heavy investments by leading international oil conglomerates and international financial institutions for the discovery, drilling and transportation of the area's energy resources remaining a real threat to irreversible fragile and unique ecosystems of the Caspian Sea and the Caucasus territories. Various exploration, production, and transportation projects are proposed or underway, mainly origination from Azerbaijan and Kazakhstan.

The Baku-Tbilisi-Ceyhan oil pipeline is the central part of the Caspian Development and Export Programme, a major program centred on a number of projects: Azeri-Chirag-Gunashli Full Field Development; Baku-Tbilisi-Ceyhan pipeline; the Shah Deniz Gas Export Project; and the South Caucasus Pipeline.

The construction of the BTC/SPC pipeline systems is closely connected with the expansion of the Azeri-Guneshli-Chirag oil fields. The overall costs of the oil and gas exploration are around USD 10 billion, with USD 4.1 billion needed for the BTC pipeline. The project design and construction were lead by the group of oil companies known as the BTC owners, where British Petroleum (BP) holds the leading position. The shareholders of the BTC pipeline other than BP are: the State Oil Company of Azerbaijan (SOCAR), Unocal, Statoil, TPAO, Agip, TFE, Itochu, Inpex, Delta Hess and Conoco Philips. In August

⁴ Mini-Case and Illustrative Paradigm - U.S. Policy on Caspian Energy Development and Exports; Graham Allison, Emily Van Buskirk; May 2001; Caspian Studies Program - Harvard University, John F. Kennedy School of Government.

⁵ U.S. Department of Energy.

Part I. General impacts of the BTC pipeline

2002, BTC Pipeline Company (BTC Co) was established. BTC Co has been responsible for the construction of the proposed pipeline in both Georgia and Azerbaijan, and in Turkey the Turkish state company BOTAS was granted this responsibility.

Dating back to the late nineties, the BTC project's supporters underlined two major benefits of the BTC pipeline: it avoids the Bosphorus strait and thus will not contribute to the environmental risks of shipping in a narrow and busy stretch of water, and it also creates a route that is independent both of the Gulf states (notably Iran) and the Russian pipeline systems.

2. Promises to the region

During the Soviet era, Azerbaijan and Georgia enjoyed strong social indicators and a remarkably high quality of life in comparison with other Soviet republics. Since the end of the eighties, when socio-economic cataclysms took place in the whole territory of the former Soviet Union, the South Caucasus countries⁶ were not unique in terms of their economic crises. However, in addition to the acute political crisis, due to civil war and ethnic conflicts, a wide range of refugees and internally displaced people significantly affected the economic development of these countries.

As a result of wars and the deterioration of socio-economic conditions, about 60-70 percent of the population of Azerbaijan and Georgia are living below the poverty level, and have experienced the disruption of their health and education systems, in addition to malnutrition and extremely bad water supply and sanitation, and a severe energy crisis.

All three countries that the BTC pipeline crosses are well known for their poor human rights record, poverty rates, unique and fragile environment, difficult and mountainous terrain, with high seismic activity, existing and potential ethnic conflicts between countries, as well as within the countries. The pipeline runs through or near areas of significant conflicts; particularly Armenia and Azerbaijan are in a state of near hostility, with the edge of the disputed area of Nagorno Karabakh (currently occupied by Armenia) falling only 15 kilometres from the pipeline route. In Georgia, there are several areas of conflict, notably South Ossetia. In Turkey, the pipeline deliberately avoids the majority Kurdish southeast but nonetheless runs through areas where Kurds make up about 30 percent of the population, indeed in areas where the armed Kurdish PKK guerrilla group has been active in the past.

⁶ Armenia, Azerbaijan, Georgia.

After the break-up of the Soviet Union, the south Caucasus and Caspian countries have been waiting for an oil boom to overcome their economic crises and to eradicate the poverty affecting the lives of millions of people living in these countries.

Since the early nineties the oil and related sector development became a top priority, as the biggest source of large and speedy income for Caspian region development. According to the World Bank, the total investments for Caspian Oil and Gas Exploitation are about USD 140-200 billion, and the private sector is the main source of those available funds. According to the Bank, "The need for private investment to realize the full potential of the region's oil and gas reserves is beyond dispute. Attracting such volumes of private investment into a landlocked, conflict-ridden region of fledgling states, inexperienced in market economics, is a massive policy challenge that has only begun to be faced. However, the economies of the region are likely to be trapped in a low-growth scenario, unless they meet this challenge."⁷

Since 1994, a combination of official government promotion and the international financial institutions (including the World Bank) have worked intensively to ensure private investments, rewrite local legislation and provide political risk mitigation for the oil sector in the South Caucasus through institutional, policy and legal reforms. According to the IFIs⁸, oil development has been considered as a mechanism to boost both the Azerbaijani and Georgian economies.

Securing at least USD 1.5 billion in public money mandates that the BTC project must be undertaken to the benefit rather than the endangerment of the public around. The oil sector itself and related infrastructural development provide only a limited amount of employment and income opportunities, especially for the poor. While in theory the main income from oil projects should flow through state budgets to improve the quality of life of ordinary citizens, the high level of corruption in the region⁹, the non-transparency of budgetary systems and arrears in the social protection field leave little hope for people seeing any improvements. "The vast majority of the region's people are still struggling with privation, inadequate services and a ruined environment. So far, their lives have not been improved by the oil boom. The concern is that more development may only make matters worse."¹⁰

⁷ Mitigating Political Risks for Private Participation, 2000, by Jonathan Walters, World Bank; www.worldbank.org

⁸ "Development of the region's oil and gas resources has the potential to deliver significant and sustained economic benefits to Georgia," explained Judy O'Connor, country director for Georgia at the World Bank, in a July 2001 letter; World Bank Azerbaijan CAS evaluation, 2000.

⁹ Azerbaijan and Georgia are ranked by Transparency International among the most corrupt countries.

¹⁰ "Commentary: Gloomy picture overshadows oil bonanza", by Michael Lelyveld. May 8, 1999, *Asia Times*

Despite the fact that the IFIs have attempted to present an improved situation when it comes to corruption in the region, praising the Georgian government for reducing corruption¹¹ as well as the Azeri government's efforts to publish the First Report on Oil Fund incomes and expenditures, such steps have thus far not registered significant. Azerbaijan and Georgia still share 137th and 130th place respectively of most corrupted countries in Transparency International's International Report on Corruption for 2005.

The governments and the IFIs have strived to convince the region's poor that the BTC and Baku-Tbilisi-Erzrum gas pipelines [AGT pipelines] will bring economic prosperity and stronger democracy to the region. Not surprisingly the people living along the pipeline corridors both in Azerbaijan and in Georgia have had high expectations regarding increased employment opportunities and access to energy from the oil and gas pipelines. Yet promises have been broken. The ultimate purpose of the pipeline, however, is to export oil and natural gas – communities along the route do not have and will not have any gas supply. And of course there were no contractual commitments from the companies for securing access to energy supply which could bring new employment opportunities and infrastructure development to these communities¹².

3. IFI involvement in BTC project financing

The at least USD 4.1 billion BTC project¹³ has been partly funded by the IFC (the private sector lending arm of the World Bank) and the European Bank for Reconstruction and Development (EBRD). The USD 500 million backing granted by these so-called development banks provided the green light for international export credit agencies (ECGD: USD 100 million, COFACE: USD 100 million, SACE: USD 50 million, Hermes: USD 150 million, JBIC: USD 580 million, NEXI: USD 120 million, US Ex-Im: USD 160 million, OPIC: USD 100

¹¹ "Georgia puts its faith in liberal reforms", by Leyla Boulton in London and Neil Buckley in Moscow, *Financial Times*, May 5, 2006.

¹² Caspian Development Panel recommends in its first report to BP to bring more emphasis to supply the communities along the route with sustainable energy sources. In its last report "activities for 2005", CDAP notes again the "incongruity" of more than 1 million barrels of oil and equally significant amounts of gas flowing through or near villages and towns where houses have no heat or electricity. It notes such a situation is not sustainable. www.cdap.org

¹³ The cost overrun constitutes 30%, according to BP, BP: Cost of BTC pipeline now estimated at \$3.9bn. <http://www.morning.com/ArticleC.asp?Article=3533&CategoryID=6>

This USD 4 billion does not include the recent statement from BTC Co that it would pay to BOTAS USD 333 million as a cost overrun on the Turkish side. "BP-led Baku-Ceyhan consortium to pay BOTAS oil USD 333 million for cost overruns", 6/6/2006, *AFX news*, <http://www.euro2day.gr/articlesfna/15645096/>

million, etc) to pump further public funds to the project. A number of leading commercial banks (ABN AMRO, CITI corp, Japan's Mizuho, Societe Generale, Royal Bank of Scotland etc.), following the example of the IFIs and ECAs, also got involved in the BTC financial package.

The timing of the decisions by IFC and EBRD to fund the pipeline project in November 2003 was also notable. The decision was taken soon after the confident triumph of nepotism in Azerbaijan with the transfer of the presidency from Aliev father to son, followed by dozens of deaths and the arrest of opposition parties after the election in Azerbaijan, as well as a number of allegations related to corruption and kidnapping against the Aliev clan¹⁴. Running parallel to the decision of IFC, thousands of people in Georgia demanded the resignation of President Shevardnadze and his corrupt government as a result of the drastic falsification of parliamentary elections, ultimately leading after twenty days of protest to the "Rose" Revolution.

With the systemic problems suffered by both states¹⁵ on full display to the world, here were the public banks insisting that the cure for such ills – chief among them crippling poverty and endemic corruption – should be a sprawling oil pipeline crossing their lands. The logic was outlined by EBRD Vice-President Noreen Doyle at the official signing ceremony in Baku in February, 2004 in a way to bring hope and benefits to the people of the region, "We needed to assure our shareholders that this project would be safe, that it would fairly benefit the population, and that it would bring sustainable benefit."

The IFC and EBRD continue to maintain that the BTC project is a model of development and poverty alleviation, and claim that it will help to protect human rights in the region, and also that the public participation in the decision-making process broke new ground in its transparency and inclusiveness.

¹⁴ "Lawsuit over oil deal accuses Azerbaijan father-son presidents of bribery", *Chicago Tribune*, by Alex Rodriguez, Tuesday, November 04, 2003.

¹⁵ Azerbaijan and Georgia.

EARLY OIL PROJECT

On September 20, 1994, the Western Oil Consortium and SOCAR signed a Production Sharing Agreement for the development of the Azeri, Chirag and Guneshli oilfields. The signing of the contract became an important event in Azerbaijan's history and has had a strong impact on the nation's future.

The programme for the development of the oilfields involves:

- *early oil production and transportation to the Black Sea Coast*
- *full field development and oil transportation to the Mediterranean.*

The development of pipelines for transportation was a key element of the oilfield development programme. The Early Oil Project involved the commercial development of early oil from a part of the Chirag offshore oil field in the Caspian Sea, with the export of oil from Sangachal carried out via the Northern Route Export Pipeline to Novorossisk and the Western Route Export Pipeline to a new storage terminal at Supsa on the Black Sea.

The northern route for early oil was opened in November 1997 to move Azerbaijani crude to the Black Sea port of Novorossysk. In April 1999, a western route to the Georgian part of Supsa was completed.

The total project costs constitutes USD 1856 million, where USD 400 million was provided by IFC and EBRD. The loan aimed to finance oil terminals, storage facilities and offshore platforms as well as an undersea oil pipeline across the Caspian and the completion of onshore ones from Baku in Azerbaijan to the Black Sea ports of Supsa in Georgia and Novorossiysk in Russia.

4. Host Government Agreements – New tools for higher corporate profits

“Without having to amend local laws, we went above or around them using a threat”.

James Goolsby Baker Bott¹⁶

Implementation of the BTC project has proceeded over the last ten years as a result of various discussions, negotiations, and several international agreements. Here we will very briefly touch on the issue of the project's legal regime. Despite the fact that to a large extent the HGAs are one of the primary causes of the existing controversies around the pipeline, we will not engage in theoretical discussion but will rather try to show with different examples what was the impact of these agreements on the countries involved.

¹⁶ “Wildcat Lawyering”, by Daphne Eviatar, *The American Lawyer*, November 2002.

Azerbaijan's oil boom and the ghost of Dutch Disease

There is clearly an oil boom in Azerbaijan. Since the early nineties around USD 20 billion has been invested in Azerbaijan's oil and gas infrastructure development. The cumulative income of Azerbaijan should reach around USD 10 billion in 2010, while it is expected that annual income from BTC/SPC will be around USD 5 billion in the same year. For the 2001-2004 period the annual GDP growth varied between 9-11 percent, while in 2005 economic growth jumped by an extraordinary 26.4 percent¹⁷. However, according to official statistics, more than 38 percent of Azeris are living under the poverty line¹⁸.

Anyone visiting Azerbaijan can see two different countries. First is the centre of Baku, full of new expensive office buildings and top brand shops; English and German is similarly spoken in the streets alongside Russian and Azeri. Yet another country becomes evident in Baku's outskirts and persists all over the regions alongside the BTC pipeline – heavy unemployment and wage discrimination based on nationality¹⁹, a polluted environment featuring oil lakes, people living on substance farming and hard physical work, increased amount work emigrants to Russia and Ukraine and families led by women. According to an Azerbaijan oil worker, plenty of money is coming into the country – “But we see none of it; none today and none tomorrow.”²⁰

The government budget greatly depends on oil revenues for its financial stability. On average it makes up about 50 percent of the income in the budget. Increasing oil extraction since 1998 has facilitated the predominance of the oil sector and the decline of the manufacturing industry. The sharp increase of oil prices in 1999, and the ongoing sharp rise following the most recent Iraq war has had a favourable effect on Azerbaijan's oil revenues, especially with the share of petroleum products in Azerbaijan's total exports composing around 86-90 percent since 2000. In 2005 oil products' share of GDP rose to 39 percent. The BTC/SPC pipelines will double the oil share in GDP by 2010, as well as increase Azerbaijan's dependence on oil.

This is an alarming trend given that it remains unclear how the government and IFIs will work in order to diversify the national economy. The Oil Fund established under IMF and World Bank pressure in December 2000 still functions based on presidential decree and is accountable and responsible to the President of Azerbaijan, who has the power to appoint or dismiss the fund's director and also approve its supervisory board²¹. Therefore, the key idea of the IMF and World Bank of ensuring that the oil fund would be independent from the political elite has failed at a fundamental level. Despite a number of attempts to make the Fund transparent, such as international auditing reports, the publishing of the Extractive Industry Transparency Initiative report, a dedicated website, a number of important things such as bringing the Fund under parliamentary scrutiny, increasing the functions of its supervisory board and ensuring its independence, are still pending.

¹⁷ <http://www.cia.gov/cia/publications/factbook/geos/aj.html>

¹⁸ Azerbaijan: Oil billions and poverty, <http://www.morning.com/ArticleC.asp?Article=3007&CategoryID=7>

¹⁹ According to the Independent Oil Trade Unions, the salaries paid to local and repatriate workers differs despite them having the same workload and qualification.

²⁰ “The country is split between those who benefit (from the growing oil and gas market) and those who don't, with a few more on the side of those who don't,” Chuck Tripp, a professor of political science at Westminster College in Salt Lake City”, Azerbaijan eyes the West , By Leah Krauss UPI Energy Correspondent, June 26, 2006 <http://www.wpherald.com/story-view.php?StoryID=20060626-120629-9857r>

²¹ Consists of government officials

Part I. General impacts of the BTC pipeline

The BTC project is governed by the Intergovernmental agreement (IGA), signed by the three participant countries in 2001, and the Host country Government Agreement (HGA, signed by each country and the project sponsors) defines all legal requirements for the BTC pipeline project. A number of controversies have emerged including the overruling of all national laws, other than the constitutions, the granting of power to the project sponsors to refuse to implement any new environmental, social or any other laws affecting the pipeline that countries may introduce in the next forty years – the lifetime of the Agreement - potential European Convention on Human rights. Moreover, the project's legal contracts state clearly that BTC "is not intended or required to operate in the service of the public benefit or interest".

However, this clause does not appear to have prevented a number of western governments from deciding to make available secure funding through public funds; the commercial background of the project was for several years in doubt. The project sponsors clearly recognised that the BTC option makes sense only "if 'free money' is offered by governments to build the line"²².

BP has argued that it introduced the HGAs to maintain the project's uniformity in all three countries and to fill any gaps discovered in the countries' relevant legislation. However, the only uniformity we have observed has concerned keeping the HGAs as non-transparent as possible²³.

All three HGAs were ratified by the three parliaments and as a result entered the law in the relevant countries. Yet these laws were never known about by local people before the demands of NGOs to ensure due transparency of the agreements.

Analyses of the HGAs have been carried out by different international legal groups, pointing out that the BTC HGAs are undermining the rule of law and overriding human rights law. In its research "Human Rights On—line", Amnesty International pointed out that the HGA for Turkey²⁴ creates a disincentive for the country to protect human rights because the country has agreed to pay compensation to the consortium if pipeline construction or operation is disturbed. Payments have to be made - even when Turkey intervenes to enforce parts of its law that apply elsewhere in the country. According to the report " "[The HGA] blatantly disregards the European convention on human

²² "Wisdom of Baku pipeline queried", *Financial Times*, November 4, 1998

²³ Signed in 2000 and ratified in 2001, the HGAs were not been published until the late autumn 2002.

²⁴ "Peter Frankental, Amnesty's business campaigns manager, said the report had focused on Turkey because it lacked resources for a broader study. But the group had similar concerns about Azerbaijan and Georgia. He also noted that Amnesty had monitored Turkish human rights violations for the past 40 years. The new government was trying to stamp out such abuses as part of its efforts to meet EU membership criteria." BP accused of pressure over Turkish pipeline, by Leyla Boulton in Ankara, *Financial Times*, May 20, 2003

rights, which requires states to intervene at an early stage when there is a danger that could threaten life, and substitutes the softer stipulation that Turkey may only intervene in the pipeline project when there is 'an imminent material threat' to safety or security".

Benefits to Georgia from the BTC pipeline

In Georgia, despite GDP growth of 4-6 percent per annum, and increased GNI per capita from USD 480 to USD 1020, overall poverty has remained high and affects more than 50 percent of the population, while extreme poverty incidence increased to 17.4 percent in 2004, up from 15.1 percent in 2002²⁵. In mid 2006, prior to the opening of the BTC pipeline, the Georgian Department of Statistics announced new "positive" data according to which 33.6 percent of people are living in poverty²⁶. At the same time President Saakashvili assured in his annual address to the Georgian parliament in 2006, that: "Compared to 2002, taking inflation into account, per capita GDP has almost doubled and has reached USD 1,421." Unfortunately, such a statistic barely changes the reality for ordinary Georgians.

In 2002-2005 the government proudly spoke about increased foreign direct investment (FDI) in Georgia, successfully forgetting the fact that around 50 percent of FDI was brought by the BTC/SPC pipelines, mostly in the form of pipes and heavy technical equipment that has little to do with economic development²⁷.

The benefits of Georgia from the BTC pipeline are more than modest. Since 2008, when according to the original schedule the pipeline is to be fully operational, the state will receive around USD 50 million per annum²⁸. As underlined by the government and IFIs, the major benefit for Georgia will be the South Caucasus Pipeline that will allow for Georgia to diversify its supply as well as receive five million cubic metres from Shah-Deniz pipeline as transit fee, as well as the possibility to purchase the same amount of gas for lower prices. Population expectations are connected to the fact that this gas will go directly to the household gas distribution system. However, it is still unclear as to how the Georgian government will use this gas. Some IFIs (like the World Bank) are suggesting how to explore possibilities for reselling this gas to Turkey to increase budgetary incomes, while it looks like the government intends to sell this gas to a number of Russian Energy companies that are producing electricity in Georgia. When tariffs for energy services are rising in Georgia, this could create further disappointment.

²⁵ State Department of Statistics and Government of Georgia, EDHRP Progress Report, June 2005

²⁶ "The Statistics Department proudly report that we are not all that poor, there was just a methodological failure, which has been rectified with the support of the World Bank, and now we have a lower rate of poverty....The benefits of this new methodology are very simple. The major food product consumed by the Georgian population (especially the poor) is bread. Using the old calculations, you did not live in poverty if you consumed at least 350 grams of bread a day; under the revolutionary new approach it transpires that the daily norm is actually just 250 grams of bread a day-thus we are not so poor after all. ... The (new) vital statistics show that in 2004 poverty was at 35.7 percent, in 2005 39.4 percent and in first half of 2006 33.6 percent." New methodology decreasing level of poverty, By M. Alkhazashvili, *The Messenger*, 2006

²⁷ The FDI jumped from USD 109 ,3 mln in 2001 to USD 339 499,1 mln in 2004, 60% of latest was BTC/SPC investments.

²⁸ Figures how much Georgian Government would pay for pipeline security is still confidential

Part I. General impacts of the BTC pipeline

Amnesty International and other human rights groups warn that the BTC stabilisation clauses are leading to a situation that would have a “chilling effect” on the states’ incentives to improve their Human Rights and Environmental Legislation. They also heavily criticised the fact that according to the IGA the project has no public purpose, this could prevent the governments from protecting the public interest, as it gives a guarantee to Main Export Pipeline (MEP) participants that “the State Authorities shall not act or fail to act in any manner that could hinder or delay any Project Activity or otherwise negatively affect the Project or impair any rights granted under any Project Agreement”.

Just two days before the publication of the Amnesty International report, all three governments issued a Joint Statement (recognized by BP as one of great accomplishment), followed by BTC Co’s “Human Rights Undertaken” – Citizens Guide on BTC/SPC pipelines, in which it took responsibility not to invoke the compensation clauses in the HGA in the event of new laws bring introduced for human rights or environmental rights.²⁹ Until now BTC Co has effectively used the existing prevailing regime for its own benefits and has come up with its Citizens Guide just to satisfy the World Bank and EBRD. However, it remains unclear what would happen if any of the countries would undertake in the near future some new environmental and social laws, especially taking into account that the IFIs have almost lost all of their leverage as the logical sequence of successful loan disbursement for the project. If BTC Co and BP were indeed serious towards this commitment, a much easier and more direct legal step was to enact specific amendments to the IGA and HGAs.

BP’s claims in the same Citizens Guide that according to the IGA the project must comply with “EU standards”, and “the reference to EU standards provides a benchmark and floor” to ensure that “IGA ensures that the BTC project must meet or exceed EU standards³⁰”. However, the “IGA’s commitments only extend to those (unspecified) “standards” that relate to “technical, safety and environmental” practices within the oil industry. Beyond this, the phrase “European standards” remains undefined in any of the legal agreements or project documents which form the legal regime for the project”.³¹

This proposal is witnessed by the BTC-commissioned Foley HOAG report in its discussion about workers’ rights. According to the report, “The extensive use of mandatory overtime remains problematic as long as Georgia’s Soviet-era Labor Code remains on the books, inasmuch as the Labor Code limits workers

²⁹ “Legal opinion, however, is divided on the efficacy of the Deed Poll, not least only because it is only signed by the BTC Co. and does not form part of the bundle of documents that constitute prevailing legal regime. Indeed, the HGAs and Intergovernmental Agreement remain altered.” *Turbo-Charging Investor Sovereignty*, by Nicholas Hildyard and Greg Muttitt, in “Destroy and Profit”, Focus for Global South, 2005.

³⁰ BTC SLIP, BTC briefing note on Environmental Standards, Applicability and Enforcement, Final, June 2003.

³¹ *Turbo Charging Investor Sovereignty*, by Nicholas Hildyard and Greg Muttitt, 2006.

to a 41 hour work week and 120 hours of annual overtime. ...Monitors are of the belief, however, that the Prevailing Legal Regimes requires Contractors to abide only by Prevailing standards in the international Petroleum industry, rather than the exceedingly restrictive provisions of the Georgian labour Code. As long as working hours are consistent with international labor standards applicable under the Prevailing Legal Regime, which they appear to be, then there is not a violation of AGT's Human Rights Commitments".³²

International groups also pointed out the fact that the HGAs significantly reduce the possibilities for an ordinary citizens' redress mechanism. The BTC Co can at any time avoid responsibility for damage reimbursement to a third party (the population) if they can indicate that the damage was caused by the breach of any project agreement by state authorities. In such a case, third party interests are not protected at all. Local people are unable to demand from state authorities or from the BTC Co the fulfilment of undertaken commitments as, according to the EBRD: "Clearly this right [right of action for local citizens if BTC Co breaches the environmental or social standards] set out in the HGA cannot accrue as a matter of contract, since the third party is not part of the HGA."

Similarly, ordinary people are also disallowed from finding out a guilty party if a violation of the HGA results in damage. This issue is also relevant to the dispute between the parties of the agreement; in addition the settlement of this dispute could require a lengthy procedure of international arbitration.³³ In case of applying to the court, people should sue not only the company but also the government: in a number of cases that would result in direct pressure for them.

Interestingly, the EBRD lawyers have revealed that "the argument is that, by virtue of the ratification of the HGA as a part of local law, the right becomes part of domestic legislation. Presumably on this basis such a right would also be enforceable in domestic courts, not just through the mechanism of international arbitration set out in the HGA. This provision granting rights to third parties in this manner is unusual in the context of such agreements and an interesting development."³⁴ However, such things that look interesting for lawyers usually result in huge headaches for ordinary people.

³² Human Rights Monitoring Assessment for BTC&SCP projects in Georgia, Folly Hoag LLP, January 2006.

³³ "The MEP participants shall be liable to a third party (other than the State Authorities and any Project Participant) for Loss or Damage suffered by such third party as a result of the MEP breach of the standards of conduct set forth in the Project Agreements; provided, however, that (i) the MEP Participants shall have no liability hereunder if and to the extent the Loss or Damage is caused by or arises from any breach of any Project Agreement and/or breach of duty by any State Authority and (ii) nothing herein is intended to or shall limit the rights of the MEP Participants against other Person in respect such of Loss or Damage", article 10.2 , HGA (Georgia).

³⁴ Striking a balance: Intergovernmental and host government agreements in the context of the Baku-Tbilisi-Ceyhan pipeline project" Boyd-Carpenter, H, and Lbedi, W. LIT online EBRD, 2004, [www.ebrd.com/\[libs/legal/OL04e.pdf](http://www.ebrd.com/[libs/legal/OL04e.pdf)

5 “Human Rights On-line”

Despite the immense impact of the Amnesty study, the situation on the ground has not changed very much. The IFIs significantly delayed the arrival of the BTC project onto their official project pipelines³⁵ due to numerous unresolved issues. The governments, disturbed by the concerns of citizens and public groups, connected the delay of project financing with those concerns and, rather than improving their own behaviour, started to increase pressure on public interest groups and ordinary people.

In general, it appears like a commonplace occurrence for the people in the region. Part of the population, for more than seventy years, experienced all the “benefits” of the Soviet regime, where freedom of speech, transparency and the protection of basic human rights were relegated, in order to have a “strong and flourishing” country. While the majority living in eastern Turkey, Kurds, Cerkez and other, where the pipeline passes, have been denied for the last fifty years from having their own ethnic identity and languages. A sad irony is that pressure from the very same project proponents was intended to support an increase in democracy in the region.

While the methods used by the different governments are different, the essentials remain the same. While those people raising concerns about a “state project” are automatically considered to be state traitors and enemies of the nations, Georgian state officials have started to divide public interest groups into “Good” and “Bad” ones, specifically pointing out that behind bad ones are funds from “enemy” states and also accusations that they are against the independence and welfare of their native countries³⁶.

Sometimes such emotions can be overwhelming, especially when the concerns involve issues such as the redistribution of oil revenues and corruption. Ilham Aliyev, then vice-president of the State Oil Company of the Azerbaijan Republic, Member of the Azerbaijan Parliament, Deputy Chairman and Member of the Bureau of Parliament Assembly of Council of Europe and the son of President

³⁵ According to the initial schedule it was supposed that the project would appear on the IFIs’s project pipelines on December 2, 2002; ultimately this only happened on July 13, 2003.

³⁶ “Chanturia believes that all environmental issues concerning BTC have been satisfactorily dealt with, in cooperation with environmental NGOs - or at least with what he termed “the good ones.” Chanturia differentiated between NGOs that are genuinely concerned about the Georgian environment and want to protect it, and those NGOs that are non-Georgian (he mentioned Nigeria and Papua New Guinea-registered ones) that he said were bent on wrecking the project. And he knew fully well who was behind these NGOs: Russia. “These kinds of groups have deliberately exaggerated the threats posed by BTC, because they are against Georgia’s independence,” Chanturia said, adding that he was sure of one thing: “Without this project, Georgia is a dead country.” Interview with Head of Georgian International Oil Consortium, Mr. G.Chanturia, CBN, 3/12/2002

Hejdar Aliyev, even threatened on national TV to punish opponents of the BTC project or people questioning the State Oil Fund's disbursements.

It is also notable that Baku's city authorities denied permission to the Ugur (Success) opposition election bloc to hold a rally on May 21, 2005 because it was to be held too soon before the May 25 event planned for the opening of the BTC oil pipeline, to which international dignitaries were invited. To prevent the rally the police arrested between 30 and 100 people, with some of them even beaten. From May 18, the police detained a number of opposition activists, including Razi Nuraliev, an activist of "Yokh!" (ENOUGH) movement, and a BTC pipeline monitor. The events of May 21, 2005 show clearly that no significant steps have yet been taken in Azerbaijan to open up democratic political processes that would ensure that a plurality of groups can voice their opinions on political and social issues.

Czech journalists that travelled to Azerbaijan in 2004 to shoot a film about the oil industry in Azerbaijan were harassed on several occasions by BTC pipeline security that wanted to confiscate videotapes bearing witness to the fact that lots of people were not compensated at all for the pipeline passing through their lands, as documentation has been falsified by local authorities and compensation paid to their relatives not affected by the pipeline. The local guide of the journalists and the driver also received physical threats. Only after the involvement of a number of international human rights organisations were the journalists left alone by the security forces. The Czech journalists stressed that during their stay in Azerbaijan all of their "filming activities were clouded by an atmosphere of distrust, fear about what [we] had filmed and, above all, by the fear of local affected people who were afraid to express themselves freely in the front of camera and to be critical."³⁷

An international NGOs Fact Finding Mission, consisting of groups from the UK and Italy, was constantly followed, harassed, and detained by Turkish police in eastern Turkey as it attempted to gather information and interview residents about the situation in the region. While BP claims that "the pipeline would not have a detrimental effect on the security situation in volatile areas of Turkey" recent developments tend to indicate precisely the opposite.

Local human rights defender Ferhat Kaya has undergone a number of unlawful detentions, violent assaults and death threats. His office has also been broken into a number of times. Turkish by origin, Ferhat Kaya supports local communities regardless of their nationality (Turkish or Kurdish) to protect their rights and receive compensation. In May 2004 he was detained by police and "beaten repeatedly, pointed a loaded gun at him and that he was showered with shattered glass. He was denied proper hospital treatment... Mr.Kaya,

³⁷ Letter to IFC vice president P. Woicke, September 5, 2004 , www.bankwatch.org

Part I. General impacts of the BTC pipeline

who is of Turkish descent, was also verbally abused and called a “traitor” and a terrorist” for his efforts to secure rights for the Kurdish population.”³⁸

In Georgia in 2004, not long after the IFC/EBRD successful “multi-stakeholder” meeting, police clamped down on a peaceful rally of environmental groups opposed to the construction of the pipeline in the Borjomi region.

Meanwhile, owing to a number of systemic³⁹ problems related to the BTC pipeline including local corruption, extortion, lack of information disclosure and a flawed grievance mechanism, the number of people that are directly negatively impacted by the pipeline is increasing.

Consequently hundreds of peaceful rallies, demonstrations and blockages of pipeline construction have taken place all across Georgia. In response, BTC Co secured “high level government assistance to publicize that blocking the pipeline right of way is contrary to the national interest and may result in prosecution.”⁴⁰ There have been a number of cases where special military forces have been deployed against woman, children and the elderly; examples of people being arrested and beaten is not rare. This has happened equally during Shevardnadze and Saakashvili’s rule. In a number of cases (for example Krtsanisi, Dgavri and Rustavi) some people have been seriously injured.

There have been a number of concerns regarding the compliance of BTC Co and its subcontractors’ activities with international and national labour rights’ legislation. Since November 2003, workers’ strikes in Georgia have been commonplace in the regions of Gardabani, Tetrtskaro and Tsalka. The first strike on the Azerbaijani part of the pipeline took place on February 29, 2004, near Kurdamir. The workers basically required an increase in wages of 50 percent, full reimbursement for overtime, the equalisation of foreigners’ and local workers’ salaries for the same jobs, improved living standards⁴¹ and work conditions, as well as changing the rough attitude from managers.

The BTC pipeline workers worked around 12-14 hours in summer and 10-11 hours in winter. It should be underlined that workers also worked over weekends and during public holidays. Simultaneously, in both countries, overtime was paid with the regular working hours⁴².

³⁸ Letter to the IFC ED on abuse of a Turkish Human rights defender working on the BTC pipeline, by international NGOs , www.bankwatch.org

³⁹ Part C Georgia SRAP Expert Panel Review February 2004 Rev. 1 C-29.

⁴⁰ Part C Georgia SRAP Export Panel Review February 2004 Rev IC -29.

⁴¹ There were a number of cases of food poisoning among the workers.

⁴² According to the BTC commissioned Foley HOAG report “The extensive use of mandatory overtime remains problematic as long as Georgia’s Soviet-era Labor Code remains on the books, inasmuch as the Labor Code limits workers to a 41 hour work week and 120 hours of annual overtime ... Monitors are of the belief, however, that the Prevailing Legal Regimes requires Con-

Workers also questioned the fact that they only received one month contracts⁴³. In the workers' view, one of the main reasons for short term contracts is that this allows middle range management to engage in nepotism and bribing. One month contracts can also be used as a good tool to put pressure on workers willing to express concerns.

For local trade unions, BTC construction has involved discrimination by nationality, as workers with similar qualifications received unequal wages. BTC Co's response underlines, that the "higher wages of foreign workers are established by the fact that the above mentioned workers apart from the job, have some additional responsibilities and coming out from their experience they obliged in particular cases to implement specific (also high risk and accuracy) works". However it was not specified in response what these specific high risk tasks were, nor has the matrix of wages for foreign workers been given to trade unions.

Some workers also disclosed the fact that management sometimes treated local employees as second class citizens. Azerbaijani workers also reacted strongly to the news that an employee of a subcontractor, PIG, a British manager severely beat an Azerbaijani worker Taleh Rustamov. The reason for the British manager's "anger" was that the employee had put on a white helmet instead of a yellow one (management wears white helmets). Rustamov was hospitalised. This incident became the last straw for Azerbaijani workers, who declared a strike. According to the workers, it was not the first time that foreigners had offended and humiliated local workers.⁴⁴

IFC staff convinced the Board of Directors that the IFC's role in the BTC project is to "provide leadership in designing a framework and oversight mechanism for the development and operation of the projects in an environmentally and socially sustainable manner". However, using armed forces and police against a peaceful population, who on the most part are poor and whose social economic rights are also deprived by the state, and human rights defenders, is far removed from the best practices of social sustainability for the BTC project's operation.

tractors to abide only by Prevailing standards in the international Petroleum industry, rather than the exceedingly restrictive provisions of the Georgian labour Code. As long as working hours are consistent with international labor standards applicable under the Prevailing Legal Regime, which they appear to be, then there is not a violation of AGT's Human Rights Commitments".

⁴³ We are not getting our salaries on time," said David, a striking worker and a resident of Rustavi. "There are problems with the contracts--they offer us to work for a few days, theoretically as a trial period and then dismiss us without pay", *Agence France Presse*, December 16, 2004

⁴⁴ "Opponents of Baku-Tbilisi-Ceyhan Project Reactivated" by Gulnara Ismailova, June 30, 2004, *CENTRAL ASIA - CAUCASUS ANALYST*.

***BTC's indirect negative impacts:
increase of prostitution and trafficking of women***

As has been practically expected in poor countries like Azerbaijan and Georgia, this major infrastructure project has caused increases in prostitution and trafficking. Thanks to the work of a number of woman groups, as well as media investigations, it has been revealed that the situation is quite alarming. The major shift of male workers along the pipeline, with an increased number of foreigners as well as workers from other regions, added to the development of related business - restaurants and hotels - has resulted in increased narcotics trade and prostitution.

The Women's Crisis Center, an NGO working on woman rights issues in Baku, specifically studied the issue. According to the group, the fact that the gender factor was not taking into consideration during the pipeline and related infrastructure development, has had a negative impact on the prostitution rate. First, it has remained a matter of concern since the beginning that the majority of local people are still unemployed. Due to the increased working migration of men, most families are left to be supported by women. This has not only led to the increased incidence of women turning to prostitution to support their families, but also the places of inside trafficking.

According to the investigations of a journalist: "Inside Azerbaijan, trafficking is blossoming in places of intensive economic activity. So-called Mama Rozas hire 15-20 girls and take them to various places where intensive construction work or trade is going on. The centre has cases when girls were taken to cities where the Baku-Tbilisi-Ceyhan pipeline is being laid. ... This is a well-organized criminal business which is well-aware of the situation in the country and in places where their services are in demand."⁴⁵

The Western Resource Center on NGOs and Human Rights⁴⁶ has made the strongest statement about the situation in west Azerbaijan: "Some people started their own "business" in Western regions of the country: the Shamkir, Tovuz and Aghstafa regions. You can order women at the restaurants, motels and saunas situated close to the main road. Besides, in the villages from where the pipeline passes, for example in Girag Kasaman and Poylu villages of Aghstafa region, this business is developing, several houses are operating in the villages for the "foreign men, offering them local women". The third parties, that is the owners of the houses, find women for the foreign men, and give to these women only some part of money. "According to the group, the main cause of increased prostitution and related diseases is high-level poverty and social insecurity in the Azeri regions where the BTC pipeline and Silk Road projects are implemented.

⁴⁵ "Those who are sinless" by Gulnaz Gulieva, Caucasus Media Investigations Center, <http://cmic.aznet.org>

⁴⁶ PRESS RELEASE, February 2005, Western Resource Center on NGOs and Human Rights A3e-3500, Gazakh, Azerbaijan, S.Vurghun Street, 36. Tel/Fax: (+994 279) 5 04 32, Email: qazax_rc@yahoo.com OR west-rrm@box.az

In Georgia, prostitution has increased in towns like Tetrtskaro and Akhaltskhe where people directly link the pipeline construction with increased prostitution⁴⁷, while in small villages the situation is unchanged⁴⁸. The people see a very rational explanation for this: the region is very poor and even ordinary pipeline workers look rich. Local groups in Akhaltsikhe, as well as a number of human rights activists from Erdogan⁴⁹, have detected that there is increased temporary trafficking of women from Georgia to Erdogan in Turkey as a result of BTC pipeline construction.

The high level of poverty in conjunction with rapid infrastructural developments has precipitated a further increase in discrimination against women, and increased prostitution and trafficking within and outside of Azerbaijan and Georgia. Meanwhile, in a number of cases, as has been revealed in Georgia, the BTC project has adversely impacted women through improper compensation as well as damage to infrastructure and houses.

6. Corruption

The World Bank and the EBRD both recorded high levels of corruption in Azerbaijan and Georgia before approving finance for the BTC pipeline project. Moreover, corruption is widespread in the three countries, according to government monitoring groups. Among the 159 countries surveyed for government transparency in 2005 by Berlin-based Transparency International, Azerbaijan comes in at position 137, while Georgia manages position 130. From the corruption index perspective they are still, unfortunately, flourishing. The World Bank has also highlighted problems associated with corruption in Turkey, noting in a 2001 report that contractors in Turkey have traditionally been asked to pay up to 15 percent of the value of state contracts to politicians as “state contributions”.⁵⁰

Corruption is widespread in the region and is even considered as endemic, especially by the oil companies. In Azerbaijan, corruption is of course closely connected with the oil sector, simply because it is largely funded. It derives primarily from agreements with foreign oil companies, with the illegal export of non-recorded oil, overpricing, construction and repairing works, and so on. The SOCAR State Oil Company of Azerbaijan Republic is at the centre of the

⁴⁷ Akhaltsikhe is located on the main road from Poti, Black Sea Port, to Turkey and there was a lot of international traffic and consequently prostitution already existing in the city prior to BTC, while Tetrtskaro is located far from all types of main roads, and is characterised by very low economic activity; previously there, prostitution was almost non-existent.

⁴⁸ Except for strong moral doctrines existing in small communities, one of the reasons for the non-increase of prostitution is the fact that villages are mostly abandoned by youth.

⁴⁹ Bordered region of Turkey to Akhaltsikhe, Georgia.

⁵⁰ “Turkey set to unveil action plan to fight corruption”, by L. Boulton, *Financial Times*, February 6, 2002.

state's corruption⁵¹.

According to Chuck Tripp, a professor of political science at Westminster College, the real danger for westerners trying to do business with the new self-proclaimed energy powerhouse is "the Aliyev patronage system."⁵² "They have to pay off corrupt officials -- and that goes all the way to the president -- to get the contracts to explore for oil and gas."⁵³

According to UPS some companies understand corruption as the "culture of the country". "Engineering firm Bateman Litwin prides itself on understanding the local culture of its project sites and "knowing who to talk to". A representative of the company admits that he doesn't "know what happens behind the scenes [about corruption], I don't think it's our business."⁵⁴

It would appear that BP also understands well with whom to talk. Corruption allegations also surround the Production Sharing Agreement (PSA) reached between the Azerbaijan government and the Azerbaijan International Oil Company (AIOC) in 1994, headed by BP⁵⁵ (The PSA underpins the economic viability of the BTC pipeline and commits the Azerbaijan government to establishing an export corridor for the oil produced under the agreement.) According to BP, the PSA is linked contractually to a Transportation Agreement which remains confidential⁵⁶. Parts of the PSA have also not been disclosed due to commercial confidentiality. The off-shore status of a number of companies involved in the AIOC also denies public access to the names of their shareholders and directors and to their annual reports and accounts.

An international NGO coalition asked the UK government to investigate the corruption allegations surrounding the award of contracts and jobs for BTC-related work and to make the results of the investigations available for public comment. However, it emerged that the UK government simply asked BP to conduct an investigation and the concerning matter for the governments has been closed⁵⁷. However, this internal BP investigation was never opened for

⁵¹ Prepared for EBRD & IFC investigation arms, The Committee of Oil Industry Workers' Rights Protection, Azerbaijan, October 2003.

⁵² Analysis: Azerbaijan eyes the West, by Leah Krauss, UPI Energy Correspondent. Published June 26, 2006

⁵³ *ibid*

⁵⁴ *ibid*

⁵⁵ Bribes were allegedly channeled through two offshore companies in the AIOC consortium. The names of the companies, which are alleged to have been owned by the Aliyev family, were allegedly not disclosed in the PSA.

⁵⁶ Tom Dimitroff, lawyer, BP, Meeting with Kurdish Human Rights Project, Friends of the Earth and Corner House, 8 December 2002.

⁵⁷ A BP spokesman said the company had made a full investigation into the accusations but they were 'quite without basis'. 'We are quite confident of all this.' BP caught up in Asian bribery

the public.

This is not the only scandal surrounding the Aliev family. “An indictment unsealed in September in federal court for the Southern District of New York accuses a Swiss lawyer of funneling millions of dollars in bribes to top Azeri officials in a U.S. investment consortium’s bid to take control of the Azeri government’s state oil company. The privatisation never took place, and American investors lost millions of dollars in the failed deal. The 25-page indictment does not name the Azeri officials, but other court records and a former top Azeri government aide allege that two of them are former President Heidar Aliev, Azerbaijan’s authoritarian leader for almost three decades, and his son, Ilham Aliev, present President of Azerbaijan”.⁵⁸

Bearing in mind Azerbaijan’s increasing oil revenues, of course, so-called “grand” corruption cases related to oil revenues are bound to increase.

In Georgia corruption persists on all levels and since the arrival of the new Saakashvili government, for the last three years specific bribery cases have been reduced, however the amounts needing to be paid have increased. At the same time there is a growing number of cases where local and regional governors compel enterprises to hand over shares in their businesses. Nepotism and the misuse of state funds should moreover be considered as something related to corruption. However, due to the fact that there is simply less money going around than in Azerbaijan, the scale of corruption is less.

Taking into account the endemic nature of corruption within the country, as expected the BTC pipeline is not avoiding corruption allegations and practices on a different level, starting from bribes for job security, village headmen’s run off or leaving for themselves thousands of dollars in compensation money, mafia types extorting money from landowners and of course governmental officials in assigning land compensation, for both privately owned and municipal land. In the end, these kind of corrupt practices impinge heavily on the shoulders of ordinary people, where some lose their livelihoods and get nothing in return.

claims, by Nick Mathiason, Sunday July 17, 2005, *The Observer*.

⁵⁸ “Lawsuit over oil deal accuses Azerbaijan father-son presidents of bribery”, by Alex Rodriguez, *Chicago Tribune*, November 4, 2003.

7. Security of the BTC pipeline

How secure is the new pipeline across Caucasus?⁵⁹

According to the BTC pipeline's intergovernmental and host country government agreements, the security of pipeline operations are the prerogative of the host countries.

According to the IGA , article 11, the host governments are granted serious security guarantees to the MEP participants, including “protection for the Rights to Land, the Facilities and those persons from all losses or Damage resulting from civil war, sabotage, vandalism, blockade, revolution, riot, insurrection, civil disturbance, terrorism, kidnapping, commercial extortion, organized crime or other similar destructive events”.

However, until now it has not been clear how much the governments would pay for providing security for the BTC pipeline and what actually the provision of security means. In Turkey security will be maintained by the Turkish Gendarmerie, in Georgia by Special State Protection Service (SSPS) and in Azerbaijan the Pipeline Security Service (PSS) will be in charge of most of the security operations. Even before bearing in mind the existing poor human rights protection records within the region, these special units are already raising concerns,⁶⁰ and neither the so-called Joint Statement⁶¹ of the Host Governments, nor BTC Co “Human Rights Undertaking”⁶² is able to .

Meanwhile, it looks likely that the governments would be forced to pay a substantial amount for security provision. For example, according to the Georgian International Oil Corporation (GIOC), up to half of all BTC transit fees received by Georgia could go to finance security for the pipeline, including compensation to Turkey for military training, electronic surveillance systems, and arms and ammunition to help Tbilisi maintain pipeline security.⁶³ In October 2004 Georgia signed with BTC Co a number of grant agreements, mainly for social spending. **Simultaneously, a protocol on the provision of security for the BTC pipeline and related infrastructures⁶⁴ and an agreement**

⁵⁹ “How Secure Is New Pipeline Across Caucasus?”, by Brooks Tigner, BRUSSELS, www.defencenews.com

⁶⁰ See Human Rights Online, Amnesty International Report

⁶¹ Joint Statement on the Baku-Tbilisi- Ceyhan Pipeline Project.

⁶² The problem with the joint statement and BTC Co Human Rights Undertaken is the fact that both were written in response to an NGO critique, meanwhile the legal status of the above-mentioned documents fall far short of being legally binding.

⁶³ Just when you thought Baku-Ceyhan was dead and buried: Part 6, By Dr. Robert M Cutler, Alexander’s Gas &Oil connections, Volume 5, issue #8 -12- 05-2000

⁶⁴ PROTOCOL BETWEEN THE GOVERNMENT OF GEORGIA AND BP EXPLORATION (CASPIAN SEA) LIMITED ON THE PROVISION OF SECURITY FOR THE BAKU-TBILISI-CEYHAN PIPELINE PROJECT, THE SOUTH CAUCUSUS PIPELINE PROJECT AND THE WESTERN ROUTE EXPORT PIPELINE AND RELATED INSTALLATIONS LOCATED AT THE SUPSA TERMINAL, 19th October, 2004

⁶⁵ on the provision of security have been signed. With this agreement BTC Co will provide USD 6 million for aggregate value “non-lethal and non dual-use Project security equipment.”

According to the Caspian Development Panel⁶⁶ “Report on 2005 Activities”, BTC Co worked intensively with all three governments to help ensure their security forces are properly trained to safeguard stability along the BTC pipeline, while “respecting human rights”. This includes training for Azeri and Georgian security units by the US security company Equity International, while Turkey chose to work with the security forces of Northern Ireland to train its gendarmerie and staff in relation to pipeline security.

Despite all of the above-mentioned, more and more concerns are raised vis-a-vis pipeline security in the Caucasus. This is an unstable region due to existing ethnic, religious, political and military tensions. While Turkey and Armenia have no diplomatic as well as economic relations, Armenia is also involved in a war with Azerbaijan for the last 15 years over the Nagorno-Karabakh region. At the same time Georgia has tense relations with Russia, as the latter is encouraging breakaway sentiments among the Abkhazia and South Ossetia regions, in order to maintain its political pressure over the country. Such tense relations between all players in the region, on top of the very existence of the BTC pipeline in the region which is considered a major fault by Russia, do not increase optimism⁶⁷. The completion of the BTC pipeline and the consideration of security issues has brought back into focus the conflict in Nagorno-Karabakh, which the pipeline skirts around by only a few miles. Despite the extensive presence of foreign oil companies and enormous amounts of incomes in the Azeri state budget, it may not prevent the Azerbaijan government from increased militarisation in order to solve the Nagorno –Karabakh problem⁶⁸ in a way other than through peaceful negotiations.

⁶⁵ AGREEMENT BETWEEN THE BAKU-TBILISI-CEYHAN PIPELINE COMPANY AND THE GOVERNMENT OF GEORGIA ON THE PROVISION OF SECURITY EQUIPMENT, FACILITIES AND OPERATIONS FUNDING FOR THE BAKU-TBILISI-CEYHAN PIPELINE PROJECT, 19th October, 2004

⁶⁶ The Caspian Development Panel was appointed by BP CEO Lord Brown as the principal high level monitoring body

⁶⁷ “Springtime is for war?”, by Ariel Cohen, March 30, 2006, <http://www.tcsdaily.com/article.aspx?id=033006C>

⁶⁸ “Aliev himself states he will do all he can to resolve the Karabakh conflict peacefully, but adds that if this is not possible, he will not rule out the use of force. At a ceremony marking the 13th anniversary of the establishment the Ministry of Internal Affairs of Azerbaijan, Aliev said, as quoted by Rezonansi: “We are ready to continue holding negotiations for the peaceful resolution of the conflict and if we see that there is even a 5 percent chance for its regulation, we will continue to take part. But if it is not possible to settle the conflict through negotiations, then we will resort to other measures.” BTC: geopolitical consequences of a geopolitical project. With the first oil pumping through the newly-inaugurated pipeline, attention is turning to its security, and the Nagorno-Karabakh conflict. By M. Alkhazashvili, *The Messenger*, May 27, 2005, #095 (0869)

Part I. General impacts of the BTC pipeline

Almost all defence analysts are sceptical regarding the “sufficient⁶⁹” security of BTC pipeline, noting the fact that “Pipelines are a target of choice for terrorist and insurgent groups⁷⁰”. The fact that the pipeline has been buried under the ground, horseback patrols and ground sensors do not seem to be really “sufficient”, not only for journalists and researchers but also for ordinary people to avoid terrorist attack.⁷¹ Meanwhile to guard against threats, the United States has spent USD 64 million to train Georgian troops in anti-terrorism tactics. American military officials have said that the United States will spend an additional USD 100 million to train and equip the Caspian Guard, a network of special operations and police units that will protect oil facilities and key assets in the region, as reported by the *Wall Street Journal* in April.⁷²

As described by the Observer, “In the foothills of the Caucasus mountains, a long line of broken mud cuts across the meadows. If you go anywhere near it, camouflaged guards carrying automatic weapons emerge from the forest beyond.⁷³” Both the guards that are supposed to protect the pipeline with automatic weapons from “terrorist attack” and local communities know that these measures are not enough. People are simply afraid about the potential impact of a terrorist attack on the pipeline on their livelihood, health and living environment. The local people are also furious because they are forced to show their passports when they need to cross the pipeline corridor with cattle or to collect firewood.

In 2002-2003, when the Georgian government tried to convince the population about the safety and security of the BTC pipeline, it announced that it had signed an agreement with Northrop Grumman Corp., Los Angeles, to develop an aerial surveillance system to monitor the BTC pipeline and its adjacent area; this has turned out to be a fiction required to promote the pipeline. This announcement brought smiles from BP’s top management, as they knew exactly that there were not even any negotiations between the Government of Georgia and Northrop Grumman Corp. It was however PR work on the part of the Georgian government for the BTC pipeline, so officially BTC Co never

⁶⁹ How Secure Is New Pipeline Across Caucasus? By *Brooks* Tigner, BRUSSELS , www.defencenews.com

⁷⁰ David Cooper, an independent defense consultant, Former NATO defence planner, How Secure Is New Pipeline Across Caucasus? By *BROOKS TIGNER*, BRUSSELS , www.defencenews.com

⁷¹ Baku-Tbilisi-Ceyhan pipeline: not yet finished and already threatened, by Gal Luft, <http://www.iags.org/archive.htm>

⁷² “U.S. places large bet on pipeline”, by Candace Rondeaux, *New York Times News Service*, May 14, 2005. San Bernardino County Sun <http://www.sbsun.com/Stories/0.1413.208~12588~2870294.00.html#>

⁷³ “Terror alert as Caspian oil pipeline opens”, by Tom Parfitt, May 28, 2006, *The Observer*, <http://www.guardian.co.uk/oil/story/0,,1784710,00.html>

actually commented on the so-called deal.

According to Jan Leschly, the Caspian development Panel Chair, the pipeline “will be a very important step forward toward security for the region and diversification of international energy supplies ... It will offer many opportunities [for BP and other companies] to promote stability in an unstable region via market mechanisms.” While the fact of diversifying Europe’s security of supply is unquestionable, the prospects for a bright future across the Caucasus region in terms of stabilisation and security remains a distant prospect.

Part II. How environmentally friendly is the BTC pipeline?



1 General problems with environmental decision-making

The legacy of oil exploitation and transportation throughout the Soviet era has already caused significant damage to the South Caucasus' valuable and sensitive environment, and directly impacted the lives of millions living in the region. The residue of past damage still remains.

Since early 1997, both the EBRD and the IFC have been looking into the exploration of Caspian Sea natural resources (oil and gas) as a major priority for regional development. Both institutions have been deeply involved in the financing of the Early Oil project that includes phase-1 development of the Azeri-Guneshli-Chirag oil fields and connected pipelines from Sangachal Oil Terminal to Supsa Port in Georgia. **Yet no strategic environmental assessment (SEA) was prepared for this overall development.**

Despite the fact that both the IFC and EBRD's own policy requirement⁷⁴ clearly indicate the need to carry out an SEA prior to a massive infrastructure project in order to assess the full cumulative impacts of the range of alternatives, of the different components of the BTC pipeline project and the related wider Caspian Sea oil and gas developments, as well as a whole range of project alternatives⁷⁵, in the case of the BTC pipeline this never took place. From the outset the banks separated the on-stream and downstream projects (like Azeri-Guneshli Chirag oil field development Phase II, BTC oil pipeline and South Caucasus Gas Pipeline) and funded them as separate projects.

Furthermore, even the Environmental and Social Impact Assessment conducted for BTC was split into three host country related parts, thus greatly limiting the options that were available for consideration. However, despite a number of requests to prepare macro-level studies on regional alternatives and a full assessment of the project's cumulative impacts on the regional environment, these were never done.

⁷⁴ The IFC (OP 4.01, para. 7), EBRD (Environmental Policy, para. 39), as well as the EC (Directive 2001/42/EC) require, before a project-specific EIA is prepared, to carry out a Strategic Environmental Assessment (SEA) of the likely overall environmental consequences when financed project represents part of the larger development

⁷⁵ The World Bank Operational Policy 4.01 underlines that "“Depending on the project, a range of instruments can be used to satisfy the Bank's EA [Environmental Assessment] requirement: environmental impact assessment (EIA), regional or sectoral EA, environmental audit, hazard or risk assessment, and environmental management plan (EMP). EA applies one or more of these instruments, or elements of them, as appropriate. When the project is likely to have sectoral or regional impacts, sectoral or regional EA is required.”"

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IFC and EBRD environmental impact assessment (EIA) requirements include an analysis of cumulative impacts. For example, Annex 2 of the EBRD's Environmental Procedures lists the sample contents of an EIA, which is to include an identification of the potential environmental impacts [of] the proposed project and its feasible alternatives including those of an indirect and cumulative nature.

The regional review prepared by the project sponsor simply summarizes the country level ESIA's, rather than exploring the cumulative impacts. It also fails to address to identify fundamental alternatives for the BTC pipeline. The project sponsors and its proponents did not even discuss the alternatives that could have been better options for the region's people and environment.

It is becoming ever more clear that the BTC pipeline route was finalised far before the ESIA documents had been prepared and where no alternatives had been discussed. The signed HGA agreements defined the entry and end points of the pipeline in each host country. This resulted in the pipeline route crossing six main waterways and several groundwater basins, as well as a number of environmentally sensitive areas such as the proposed Gobustan State National Park, the Karayzi aquifer, the support zone of the Borjomi-Karagauli National Park, the Qtsia-Tabskuri managed reserve (IUCN – IV category) highland wetland, the Tsalka lake area, the Erzurum Plain and the Ulas-Alacorak Lake Complex, the Posof Wildlife Protection Area, and could have negative impacts on the Yumurtalik Lagoons Nature Reserve and the critical monk seal and turtle breeding areas near the Ceyhan port. The pipeline also crosses a number of sensitive groundwater areas such as the Garayaz Aquifer in Azerbaijan, Lake Tsalka and the Borjomi groundwaters in Georgia, the Pasinler Plain, the Erzincan Aquifer, the Goksun Plain and the Adana-Ceyhan Plain in Turkey.

The IFIs accepted this practice without questioning the above-mentioned facts. As a result “what the BTC ESIA address generally was the attempt to provide justification for the pre-selected route through Borjomi. It discounted on a sound technical, environmental and social basis other potential routes in and around those controversial areas in Georgia”⁷⁶.

Despite the fact that the Operational Policy 4.04 of the IFC clearly states that “IFC does not support projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting, and comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs”, the pipeline

⁷⁶ Quoted in article “A Decade of Environmental and Social assessment of pipelines in the Caspian Sea, lessons ad Challenges,” by Ronald Anderson, Ex-Chief Environmental Specialist in the Environmental and Social Development Department, IFC. Anderson was one of the main IFC environmental people dealing with the BTC pipeline project and retired soon after its approval by the board of directors.

corridor chosen by BP crosses several highly environmentally sensitive areas, including the Borjomi Valley and the Tsalka underground water reserves, both of which are protected by Georgian law and EC directives.

The Dutch Commission for Environmental Impact Assessment and the Georgian government Advisor issued an advisory review that questioned BP's route selection, called for reconsideration of alternative routes that avoid environmentally sensitive areas, advocated a number of alternative routes, including a route through Karakaia that completely avoided the Borjomi-Bakuriani area. The Commission stated that BP's assessment of the possible routes was unclear and incomplete. However, while from one side "IFC agrees that it is technically feasible to construct one or more pipelines across the Karakaia ridge route and it might be technically feasible to construct one or more pipelines across the southern flank route through dynamite blasting,⁷⁷", the very same document denies the existence of the viable alternative: "The Western and Central Corridors are not constructible because of a combination of very serious environmental and safety risks as well as major geohazards and economic challenges."⁷⁸

As a result the IFC/EBRD agreed to fund the project that breaks national law. While the IFC tried to present that it was "advised that the local constitutions would always prevail over the provisions of the HGAs⁷⁹", a few months prior, in its response to WWF Borjomi's position paper, BTC Co. admitted that: "The HGA prevails over Georgian law".⁸⁰

However, the IFC and EBRD rather closed their eyes to the violation of national laws and pressure from BP⁸¹, that forced the Georgian government to hastily accept the route favoured by the oil companies⁸², than try to use their own leverage for a re-routing.⁸³

⁷⁷ October 2003: IFC response to submissions posted on website.

⁷⁸ *ibid.*

⁷⁹ *ibid.*

⁸⁰ February 10, 2003: Response from BTC to WWF's January 29, 2003 Borjomi position paper.

⁸¹ A letter from the Georgian Minister of Environment to BP Chief Executive Lord John Browne on November 26, 2002 states that: "BP representatives are requesting the Georgian government to violate its own environmental legislation. Although all possible alternatives to the Borjomi Valley were not studied in the BTC ESIA, and despite BTC's own experts' opinions on the risks of taking this route, we are now told that it is impossible to consider alternatives to the Borjomi Valley route."

⁸² In a letter to Georgian President Eduard Shevardnadze dated November 7, 2002, David Woodward, Associate President of BP Azerbaijan warned that "without this timely approval we cannot move forward with the construction phase" and suggested the position the Georgian government should take, stating that "it may be necessary to public protests, the Ministry of Environment finally issued permission for pipeline construction as suggested by BP: "inform experts who visit with [President Shevardnadze] in the coming weeks that [alternative] routes through this district are and will remain unacceptable."

⁸³ According to the IFC, the Georgian President wrote to the World Bank Group in February

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In Turkey, where the pipeline crosses a number of unique biodiversity areas, the HGA facilitated the overlooking of stricter environmental and social legislation. In a letter to BTC Co, dated 29 November 2001, the Ministry of Agriculture and Rural Affairs waived the requirement for site investigations (despite the almost total absence of on-the ground data on flora and fauna along the pipeline route) before granting approval for the pipeline route “in accordance with the Host Country Government Agreement”.⁸⁴

Selecting the route in Georgia

In Georgia, the route was selected in a very dubious manner. According to the SLIP, “The route selection process has been undertaken with substantial effort to determine the optimal route with full consideration of development constraints. The selection of the route for the AGT pipelines was carried out in accordance with the requirements of the Georgian Host Government Agreement (HGA)”. It is difficult to agree with the project sponsor that during the route selection sensitive environmental locations, high-risk sensitive geo-hazard locations and security-sensitive areas were avoided.

USAID’s review of the Georgian ESIA for the proposed BTC project revealed that the analysis of alternatives and key baseline data associated with the project were not sufficient, and did not meet USAID internal standards (22 CFR 216). According to the report the “analysis of routing alternatives was not conducted according to standard EIA practices ... Critical baseline information, impact analyses for determining to what extent impacts can be mitigated and mitigation, measures were absent”, including “Hydrogeology in the Borjomi region ... Outstanding biodiversity data issues” and “Blind faults”.

The main argument coming from BTC Co and the Georgian government to justify the route through the Borjomi region was the importance of avoiding the poor roads and security problems in the Akhalkalaki District. It should be mentioned that the possible route through the Akhalkalaki region was shorter by 60 kilometres and, from the environmental point of view, safer. This was the original route chosen by the World Bank’s preliminary study in 1998. The result of the decision to avoid the Akhalkalaki District was that the pipeline was now to pass through protected areas in Georgia and Turkey, some of which would have been avoided by the original route, notably Qtsia Tabatskuri.

Despite the claims of BTC Co and the government that their assessment of security risks

2003 stating that the Akhalkalaki district was too high a security risk (Response p6 para2). However, it is not clear how this prevented proper consideration of alternative routes in the ESIA, which was conducted prior to this date. The IFC has still failed to explain how moving the pipeline only 200 metres from the official boundary of this district mitigates the threat.

⁸⁴ Letter from Dr. Huseyin Sungur, Ministry of Agriculture and Rural Affairs (General Directorate of Protection and Control) to General Directorate of Petroleum Pipeline Corporation, “BTC Crude Oil Pipeline Project EIA activities, 29th November 2001, in EIA, Appendix A8 – Consultation results, October 2002.

in Akhalkalaki district was higher, the Dutch Commission and the World Bank Technical Advisor for the Georgian government during the ESIA approval process questioned the BTC “security index” approach. “According to international definitions, risk equals frequency times impact. It makes no sense when the frequency for a spill in Akhalkhalaki estimated so much higher that it overrides the impact of a spill in Borjomi.”⁸⁵

While it was never stated officially, in informal talks the BTC project proponents always raised the fact of the existence of a Russian military base and the large Armenian population within the Akhalkalaki district. It should be noted that since 2006 the Russian military bases have started their withdrawal under a bilateral agreement with the Georgian government and agreements reached at the Stambul Summit of 2000.

*In documents submitted by the project sponsor to IFC/EBRD, it is claimed that the “route and project have been approved as per the issuance of the environmental permit”, and that it just required “some further studies”⁸⁶. However, according to the Georgian Environmental Permit of 2001, BTC Co was obliged to “prior to the completion of the design of this section of the route, provide at least the following alternatives in the revised Route Report, both of which cross the Akhalkalaki district: 1) the Central Corridor; **The eastern section of the Karakaia route in combination with the western section of Central Corridor.**”⁸⁷*

According to WWF, despite the strict requirements of the Georgian state environmental permit to prevent oil spills in Borjomi area, those requirements have never been met by the project sponsor, including the provision of alternative routes and those referring to landslides⁸⁸.

2. Impact on biodiversity

The project’s sponsors themselves acknowledge, “The proposed route is characterized by very diverse ecological conditions and by abundant biodiversity”⁸⁹. Many endemic species like Caucasian Black goose, brown bear, wolf, lynx, red deer, chamois and migrated waterfowl will be threatened. The region is famous for its landscape diversity, with rhododendrons, cherry-laurel, ilex bushes and sub-alpine meadows famous for Caucasian Lotus, Ranunculus, Alchemilla and anemone as well as sub-alpine tall grasses and forest containing Colckic oak, chestnut and lime.

⁸⁵ “32 questions on Georgian ESIA prepared by Dutch Commission, USAID and World Bank experts that was officially sent by Ministry of Environment of Georgia to BTC Co”. Additional Information On Baku-Tbilisi-Ceyhan Pipeline’s Environmental Impact Demanded, RIA ORE-ANDA November 18, 2002 Monday.

⁸⁶ BTC, Georgia, SLIP –Part C, 3.2.1 Route selection Process.

⁸⁷ Environmental permit, November 30, 2002, Ministry of Environment.

⁸⁸ Third fact finding mission: Azerbaijan, Georgia, Turkey pipeline project, October 2004.

⁸⁹ Baku-Tbilisi-Ceyhan oil pipeline project ESIA study, www.caspiandevelopmentandexport.com.

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In Turkey the pipeline passes a number of Turkish wetlands protected under EC directives on habitats and bird protection, part of the East Mediterranean bird fly zone and are critical for many migratory European birds. This includes the important Erzurum Plain and the Ulas-Alacorak Lake Complex. In case of pipeline rupture the consequent oil leak has the potential to cause essentially irreversible damage to the wetlands and the source of the Euphrates river. Meanwhile, the shipping and construction of the port in Ceyhan may have a drastic impact on Yumurtalik Lagoons Nature Reserve and critical monk seal and turtle breeding areas.

The Yumurtalik community that completely depends for their livelihoods on fishing has expressed grave concerns regarding the Ceyhan terminal operational impacts on fish stocks, due to persistent pollution from the discharge of ballast water and of hold-cleaning waters.

3. Geohazards along the BTC pipeline

The BTC pipeline passes through the highest area of seismic activity in the Southern Caucasus (over 300 a year, ranging up to 7.3 on the Richter scale) and this increases the risks of major landslides. The average probability of a seismic event registering 7 on the Richter scale in the Kodiana mountains is once every 30 years; such an event is therefore statistically probable during the lifetime of the pipeline.

Meanwhile in Turkey one of the most serious faultlines (the North Anatolian) “runs directly from Sivas through Erzincan to Erzurum, exactly the intended route of Baku-Tbilisi-Ceyhan pipeline. By conservative estimate, there have been at least seventeen major earthquakes since 1924, measuring from 5.5 to 7.9 on the Richter scale, directly along the pipeline route”. Last year there were around 30 earthquakes in various locations along the pipeline route , ranging from 4.0 to 4.5 on the Richter scale⁹⁰.

One of the main opposition arguments against burying the pipeline in Borjomi's mountain passes in the Tskhratskharo and Kodiana areas is that the latter has 5 kilometres at high-risk of landslides. In winter it would be practically impossible to get into the Kodiana area let alone clean up any spillage or indeed make repairs to the pipeline. BTC were requested to carry out drilling to a depth of 40 metres in the Kodiana Pass to establish its safety.

According to WWF studies there are “five areas of serious active landslides. These are complemented by further areas which whilst currently inactive, can be prompted into activity by other forces, including disturbance for construction.

⁹⁰ www.koeri.boun.edu.tr

The most worrying area is the Kodiana – Tskhratskaro section, which contains landslide processes in its bedrock. This type of rock has caused problems for construction in the past, as whilst initially it seems very strong, new breakoff surfaces can form at any point in the rock. BP has chosen not to do full quantitative assessments of the landslide stability prior to construction. BTC has so far avoided clearing the right of way on this section, which indicates their concerns over the risks involved.”⁹¹

4. Baseline data: environmental and social monitoring plans

The qualitative analysis of the ESIA's for all three countries carried out by CEE Bankwatch Network revealed deficiencies in the environmental and social baseline methodologies, with questionable results and skewed interpretations. Very often baseline analysis is based on secondary sources and unrepresentative data. The Environmental Baseline data relies in many cases on secondary regional data sources, and not enough on location specific field studies. The datasets used are therefore not representative. Instead of using non-representative datasets, mobile field monitoring stations should have been used along the suggested pipeline route during 2001/2002, in order to provide enough relevant data. The flora and fauna studies did not cover periods long enough in order to cover those seasonal variations either. There were no proper references to exact sampling methods and locations.

Furthermore, there were an insufficient number of these field studies, so the ecological evaluation relied more on pre-existing studies, which were not always referred. Some of the necessary field studies were not performed at all, and it has not been specified whether and when that will be the case, nor how would the results of these studies be incorporated in possible EIA updates or management and monitoring plans, nor whether and how would these new data influence the application of mitigation measures.

The risk assessment of oil spills impacts caused by accidents on the pipeline is incomplete. Not all key risks and impacts were proportionally assessed according to their potential magnitudes and significances. Necessary refined analysis for meaningful assessment of risk probabilities and impact magnitudes was announced but not executed. There are no confidence limits of all the calculated risks and magnitudes, and the overall significance of impacts was not properly determined

The Social Baseline data have not been credible enough, since a number of irregularities were identified in the Consultation and Public Participation process, as well as due to the problems raised during the implementation phase. E.g. in 2003 it appears that BTC “accidentally forgot” to study the

⁹¹ WWF comment on BTC Application to IFC, EBRD, November 2003.

impact of BTC construction on Dgvari village during the preparation of both the ESIA and the Resettlement Action Plan preparation⁹².

5. Pipeline decommissioning

The project sponsor has failed to incorporate a decommissioning project and management plan based on present techniques with an obligation for modifications according to any new techniques at the time prior to decommissioning. According to IFC/EBRD safeguard policies, BTC Co was responsible for carrying out the final modifications of the decommissioning project and management plan, the process of decommissioning. Also BTC Co should be responsible for the monitoring of the decommissioning process, with the guaranteed involvement of an independent expert team, including representatives from the relevant environmental authorities.

However, as a matter of fact, as specified in the ESIA the BTC pipeline and AGIs will be transferred from BTC Co to the Azerbaijan (SOCAR) and Georgian (GIOG) shareholders after 20 years, which is around the time when the ACG oil field productivity will fall below profitable rates. In this way, after deriving its initial economic benefits, the BTC Co leaves a deteriorating infrastructure with all its increasing economic and environmental risks and costs to governments. The only requirement according to the IFC staff report to the board is that “Should the HGAs be terminated for any reason during the period of BTC’s ownership of the line, then BTC or its successor (s) are required to provide the governments with an Abandonment Plan that is subject to governmental approval. An ESIA will be prepared and submitted for governmental approval at that time”⁹³. Thus it is most interesting how the pipeline decommissioning will be funded, as there is no special facility in place for it. For the Alaska oil pipeline a special fund has been established for pipeline decommissioning. In fact, one of the unofficial suggestions to come from a number of BTC officials was to use the BTC pipeline subsequently for water transportation to address irrigation needs.

⁹² Borjomi District village of Dgvari, situated 1 kilometre away from the BTC pipeline route, is an extremely acute one as the village is built in the landslide zone. According to the residents, landslides have been particularly frequent in recent years. The number of landslide accidents has increased, as has the risk of damage to endangered buildings. In spite of almost three years of talks from the BTC side that the pipeline would not have any impact on the village, an Environmental Impact Assessment has never been prepared. However, as “technical support”, BP prepared a study on the visual assessment of the landslide situation in the village, and it concluded in one paragraph that the pipeline would have no impact on the village?!

⁹³ Report to the Board of directors on proposed investments in ACG Phase 1 and the BTC pipeline, October 16, 2003.

According to a USAID report, one of the lessons learned on BTC is that the “MDBs should ensure that project sponsors have prepared and incorporated into the EIA a decommissioning plan based on present techniques with an obligation for modifications according to any new technologies at the time prior to decommissioning. Establishment of a designated decommissioning fund prior to project operation should be required to ensure that adequate funds are available for proper decommissioning of production fields and pipeline(s)”.

6. BTC pipeline impacts – Relief or pressure on regional environment?

One of the main “environmental” arguments for the BTC pipeline construction was that “oil doesn’t have to go through the Bosphorus”, preventing another 1000 tanker movements per year through this highly sensitive zone⁹⁴. Most Turks also see the pipeline as beneficial for the very same reason. However, in reality the extent to which the BTC pipeline will contribute to relieving the existing situation in the already overloaded strait is questionable⁹⁵, while it seems certain to increase the very same type of environmental burden in the Gulf of Iskenderum (Ceyhan) as well as the Caspian Sea.

In Turkey’s southern coast it is expected that “three supertankers would load at the Yumurtalik terminal every day. The scale of this relocated threat to the environment is abundantly clear to those living near Yumurtalik who are well acquainted with the terrible storms that take place in the Gulf of Iskenderum about twice a year. These storms are called Yarikkaya, which translates as “the rock cut in two pieces” and are infamous for sinking ships.”⁹⁶

According to estimates provided by oil industry consultant WoodMackenzie, Azerbaijan holds only 17 percent of the Caspian’s oil reserves, while Kazakhstan holds 75 percent of the overall 30 billion barrel confirmed oil reserve⁹⁷. From the beginning the BTC pipeline idea was a political rather than an economic project. It was clear that there would be significant difficulties in filling the BTC pipeline, especially before 2010 and after 2015 , thus threatening the pipeline

⁹⁴ B. Halton, “The Baku-Ceyhan Oil Pipeline: BP replies”, December 3, 2002, www.opendemocracy.net

⁹⁵ “In fact , BP is responsible for a large part of the increase in Bosphorous tanker traffic since 1997, by pumping oil to Supsa and Novorossiysk”, BP’s Baku-Tbilisi-Ceyhan Pipeline by James Marriott and Greg Muttit, Corporate Social Responsibility Failures in Oil Industry, Baywood Publishing Company, Inc, 2005.

⁹⁶ Ibid.

⁹⁷ 98 “BP’s Azerbaijan Oil project may get World Bank aid”, by Mark Drajem, in Washington News Room, June 19, 2002.

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deal's financial viability⁹⁸. The US government has actively searched out oil for the project and over the last five years has tried to “develop a framework that will bring Kazakhstan oil volumes into the BTC systems⁹⁹”.

The Caspian Sea

The Caspian Sea is the largest inland water sea in the world. Both its geological history and long-term isolation from the world's oceans has resulted in a unique ecosystem. The Caspian region is a habitat of various aquatic, avian and terrestrial species that are vulnerable to oil spills and discharges. This region provides a habitat to 33 mammal species, 289 plant species, 256 birds, and 1248 insects. More than 90 percent of the world's sturgeons are found in this sea. One of the endangered species is the Caspian seal, the smallest seal in the world that usually migrates to the middle and southern part of the region, which is included in the project area.

Pollution in the Caspian Sea comes from four main sources: agriculture, oil production, industrial pollution and municipal waste. This pollution is a heritage from the Soviet Union on one hand and, on the other, from the economic crisis. Oil production and processing have left the land and water surrounding Sumgayit and Baku heavily contaminated. The shore along Baku Bay is black with oil residue. Untreated waste from the Volga River - the Caspian's largest river, into which half the population of Russia and most of its heavy industry drain its sewage - empties directly into the Caspian Sea. The World Bank has estimated that a million cubic metres of untreated industrial wastewater is annually discharged into the Caspian Sea. It is estimated that it would cost at least USD 500 million to clean up the Soviet-era pollution in the Aspheron peninsula alone¹⁰⁰. Although many of the new extraction projects in the Caspian are using newer technology, outdated Soviet extraction technology is still being used.

The Caspian Sea is already affected by oil exploration. Its offshore areas are especially blighted by oil. The estimations of available oil reserves vary from 15 to 30 million barrels to 100 to 200 billions. The region has already been affected by oil extraction. It was estimated that annual oil discharges reached 100 000 tons between 1986 and 1990.

As a result of pollution the Caspian Sea's biodiversity has already started to rapidly declines. An obvious sign is the collapse of caviar-producing sturgeon that is on the edge of extinction due to the loss of breeding areas, over-fishing and water pollution by pesticides, heavy metals and oil products. The Caspian sturgeon catch has dramatically decreased from 30,000 tons in 1985 to 2,100 tons in 1994.

The IFC/EBRD appearance in the Caspian Sea region has not much helped to combat the residue of the past. The Chirag Oil Platform 1, part of the Early

⁹⁸ ⁹⁹ “The doubters insist there is not enough oil to fill the line, with future production at the BP-operated Azeri, Chirag, and Guneshli (ACG) fields insufficient to meet BTC's capacity. This is certainly true for the initial stages of BTC, when up to 500,000 b/d of additional oil will be needed to get the line running at full throttle”. Nefte Compass, 2/1/03, .Watershed: Baku-Ceyhan Pipeline Faces Key Challenges.

⁹⁹ Federal News Service, October 18th, 2002, State Department Foreign press Center Briefing, Ambassador Stiven Mann.

¹⁰⁰ Oil companies have shown no interest in renovating the existing outdated Soviet extraction infrastructure (World Bank, 2002).

Oil Project heavily financed by both institutions, directly discharges generated wastewater into the Sea¹⁰¹ directly on the spawning habitat for sturgeon. For the landlocked Caspian, oil spills and chronic daily production discharges also have severe impacts on the endangered Caspian seals and waterfowl birds.

Meanwhile, while there was no firm commitment from Kazakhstan to export its oil through BTC; from time to time Azeri officials came out with extraordinary proposals, like closing the Baku-Novorossiysk and Baku-Supsa Oil pipeline after BTC became operational¹⁰². The pressure from the US and Azerbaijan on Kazakhstan to ship its oil through the pipeline was immense. Ultimately, on June 16, 2006, Kazakhstan finally committed to shipping oil via the BTC pipeline. While the initial involvement of Kazakhstan will be modest, the signing of the agreement between the Kazakh and Azeri presidents represents a historical event and a step forward towards the filling of BTC with oil¹⁰³.

Kazakhstan will transport around 3 million tons of oil this year via the Caspian and increase this to 7.5 million tones by 2010; after that Kazakhstan has pledged to transport 25 million tons of oil via BTC annually. According to Total representatives, it is estimated that the construction of an 800 kilometre pipeline, as well as oil storage facilities - to link oil from the Kashagan field to the BTC export route - will cost up to USD 4 billion. An undersea pipeline of itself is not the best environmentally friendly idea, and initially the oil will be transported to Sangachal by oil tankers.

Despite claims from BTC Co that they had enough oil to fill the pipeline¹⁰⁴, it was clear that the BTC pipeline needed Kazakh oil and parties working heavily to bring the Nazarbaev government towards a firm commitment. Despite the above-mentioned, in the 29 volumes of the project's ESIA documentation there is *no* mention of the fact that the BTC pipeline would have to be reliant on significant supplies of Kazakh oil and thus the increased impact of tanker traffic in a sensitive area like the Caspian Sea or indeed the construction of a new undersea pipeline.

It is very notable how the US president's special envoy for Caspian Energy

¹⁰¹ The AIOC/EIA states that the problem of wastewater treatment will be investigated and that "water will be discharged 50 meters below the Caspian mean level to prevent damage to productive biological zone".

¹⁰² "Azeri president says was joking about Supsa oil line closure", *Reuters*, October 16, 2002.

¹⁰³ "Kazakhstani President Nursultan Nazarbayev and his Azerbaijani counterpart Ilham Aliyev signed a pipeline agreement on June 16 in Almaty. Measures in Asia. A formal opening ceremony is now scheduled for July 13 at the Turkish terminal at Ceyhan"; "BTC: Kazakhstan finally commits to pipeline", by Shahi Abbasov and Khadija Ismailova, *Eurasianet*, June 19, 2006.

¹⁰⁴ "The economics is based only on the oil we know we have. If there was no more oil that came into BTC, that's fine. We don't speculate as to whether it will be economical if we get oil from say Kazakhstan. It is purely based on what we know we've got," says BTC Company CEO Michael Townshend, "U.S. places large bet on pipeline", by Candace Rondeaux, New York Times News Service.

issues, Steven Mann, addressed the environmental problems of the Caspian Sea: “You already have many undersea pipelines in the Caspian. You have pipelines that are transporting the resources from the offshore fields to the depots, to terminals. So there are a number of undersea pipelines that already exist. I agree with your basic point though, that everything that is done in Caspian Energy must be done to the highest environmental standards.”¹⁰⁵

Despite a number of requests to IFC and EBRD to include the issue as part of their due diligence, the answer has remained that still nothing is resolved and it is too early to consider the Kazakh oil issue¹⁰⁶. In terms of decision-making, the ignorance of this fact and related issues conveniently simplifies the existing picture around the BTC pipeline. Indeed it appears that one of the reasons for not conducting an SEA and a proper macro-economic analysis of the BTC pipeline was to keep the picture as simple and “trouble-free” as possible and not to question the financial and economic viability of the project in the worst case scenario (i.e., without Kazakh oil)¹⁰⁷.

Disputed property rights of the Caspian Sea

Before 1991, only two countries - the Soviet Union and Iran - bordered the Caspian Sea, and the 1921 and 1940 bilateral treaties governed the legal status of the Sea. With the collapse of the Soviet Union and the emergence of Kazakhstan, Turkmenistan and Azerbaijan as independent states, ownership and development rights have been called into question. Currently, there is no agreed-upon convention that delineates the littoral states' ownership of the Caspian's resources.

The legal status of the Caspian Sea is still unresolved. There are several proposed solutions. One is to divide the Caspian Sea according to the length of each respective country's coastline. Under this proposal, Kazakhstan gets the biggest share, the second biggest share would belong to Russia, then Iran, Turkmenistan and Azerbaijan. Azerbaijan would lose its access to the oil deposits in the southern part of the Caspian. Russia and Kazakhstan are also opposed to this solution for economic reasons. Meetings in February and April 2002 failed to produce any agreements.

According to the Ministry of Foreign Affairs of Azerbaijan, “Until acceptance of the common convention on the legal status of Caspian Sea, the coastal states shall implement their sovereign

¹⁰⁵ Federal News Service, October 18, 2002, State Department Foreign press Center Briefing, Ambassador Steven Mann.

¹⁰⁶ USAID in its report “MDBs Assistance Proposals” also underline that the issue of “Potential cumulative negative impacts of non-ACG oil (which may not be produced following relevant MDB and/or international environmental and social standards) transported via BTC pipeline” have not been resolved through the ESIA process.

¹⁰⁷ BUILDING TOMORROW'S CRISIS? The Baku-Tbilisi-Ceyhan Pipeline and BP: A Financial Analysis by Mark Mansley, Claros Consulting, May 2003, was commissioned and published by the international NGO coalition, available at www.bankwatch.org

rights on the basis of the established practice.”¹⁰⁸ There are a number of bilateral agreements between parties, but essentially these are not enough. In July 2001 Azerbaijan and Iran had a dispute over an oil field that both countries had claimed, and shots from Iranian gunboats were fired. This incident was the most serious in the Caspian since the Soviet break-up over a decade ago, and it caused BP to suspend operations there.

7. Cumulative impacts of the BTC pipeline

IFI's support for the BTC project, would inevitably accelerate the exploitation of fossil fuel resources trapped under the Caspian Sea, thus significantly contributing to further emissions of greenhouse gases into the earth's atmosphere and increasing global warming. Cumulative impacts on the greenhouse gases emissions were never reviewed, although it was supposed to be a part of the EIA procedure. Although G-8 countries clearly stated at their Summit Communiqués in 1999 that "... we must ensure that policies and operations of the International Financial Institutions consider possible impacts on the climate change", the assessment of the BTC pipeline's effects on climate change was not performed.

Sustainable Energy & Economy network¹⁰⁹ estimated that for the next 20 years, based on its planned capacity the BTC pipeline will emit 3100 million metric tons of CO₂. Taking into account the fact that carbon dioxide released into the atmosphere has a lifespan of 50 to 200 years. Taken thus, the BTC pipeline is going to have a lasting impact. However, in the project's ESIA BTC Co takes responsibility only for the greenhouse gas emissions that occur during the construction and operation of pumps.

According to Azeri NGOs, BTC Co also ignores the Climate Change Convention: "The associated gas produced in oil wells is burned in most of the off-shore fields. You can easily see the flame on the Sangachal terminal where the BTC pipeline starts. It also is a danger for the environment. And who knows how the wastes from this burning are managed."¹¹⁰

¹⁰⁸ http://www.mfa.gov.az/eng/foreign_policy/caspian.shtml

¹⁰⁹ www.seen.org

¹¹⁰ "AZERBAIJAN WRESTLES WITH ENVIRONMENTAL ISSUES RELATED TO ENERGY DEVELOPMENT," by Khadija Ismayilova, *Eurasianet*, July 21, 2005.

8. Failure to comply with best international standards during the BTC pipeline's construction

“The involvement of the public sector multilateral institutions provided the best prospect [the pipeline] would be built and operated to the highest social and environmental standards”.¹¹¹

Financial Times

The questions regarding the IFIs' and commercial banks' due diligence and about so-called highest international standards have been raised permanently since the pipeline construction started. Startling testimonies were revealed in the *Independent* on June 26, 2004 of several experienced pipeline experts who have worked recently on the Turkish section of the BTC project: “This project is unique. It's a complete mess-up ... everything is being done badly. No one wants this project on their CV. It's an embarrassment ... A welding inspector told me that the weld testing was rejecting 80% of the welds and had at one time been failing 100% (i.e. ALL of the welds had to be cut out and redone)...I thought I must have misheard him! (Usual is 6-8%).”

A few months before, on February 15, 2004, the *Sunday Times* reported that the safety and integrity of the BTC pipeline had come under suspicion. This information was based on an internal BP report from November 2002, stating that the inspection of the quality of the pipe surfaces, performed in Georgia and Azerbaijan, revealed the non-compliance of the coating with internationally recognised practices. **Following an inspection of the pipeline's protective coating in Georgia and Azerbaijan, Mr Derek Mortimore, an expert from BP, the consultant of the BTC project, wrote a report and, on November 10, 2002, submitted it to BP's Baku office**¹¹².

The report expressed grave concern over the coating material that had been specified by BP for use on the pipeline. The product in question was SPC 2888 from Canada. The coating had no track record on plastic coated pipeline. In Mortimore's view, the specification was “underdeveloped and incomplete.” His report went on: “As a field joint coating specification on a major pipeline, it is utterly inappropriate, as it does not confirm a protective system that can be successfully applied in all the conditions under which this pipeline will be con-

¹¹¹ “IFC backs oil pipeline project,” by Alan Beattie, *Financial Times*, November 5, 2003.

¹¹² “BP Caspian Developments, AGT Pipelines Project, Review of Field Joint Coating Specification No 410088/00/L/MW/SP/015 (issue 02.10.02)”, unpaginated, Appended to Mortimore D., “Response from Derek Mortimore to ECGD submission” in Trade and Industry Select Committee, Ninth Report, Session 2004-05, 4 April 2005, Implementation of ECGD's Business Principles, Written Evidence, Appendix 4, <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmtrdind/374/374we05.htm>. See also attached Mortimore report, at pg 24.

structed, nor does it confirm the integrity of the protection for the design life of the pipeline.” Mortimore warned BP: “We are specifying material and application that is not ‘best industry practice’ or even ‘normal industry practice’, we are in fact completely out on a limb, we cannot identify any pipeline owner who uses the epoxy by this application on PE [polyethylene] field joints any where in the world.” According to Mortimore, SPC will not ensure waterproofing and consequently protection of the pipeline sections.¹¹³

Mortimer was not the only concerned member of senior staff within BTC Co when it came to SPC 2888. On 27 July 2002, Rod Hensman, senior project engineer in BP, wrote to Trevor Osborne of BP Projects, who was responsible for the coating selection process, expressing concerns about SPC 2888. Hensman argued: “We should not be a testing ground for new materials”.

Despite this critical conclusion, BP did not replace the protective material. According to the company, the objective was to select material that would ensure the operation of the pipeline during the whole operation cycle. For this purpose, the field joint coating strategy and external corrosion control philosophy were developed.

It is significant that the timing of Derek Mortimore’s revelations coincided with the time during which the BTC Co was trying to obtain an environmental permit for construction of the pipeline in Georgia. This was the very same time when the company was making reassuring statements concerning its intentions to use particularly thick-wall pipes in the Borjomi region, through protected areas, and to follow the “highest international standards” during construction to appease public concerns regarding the pipeline routing.

A letter from Edward A. Johnson III, BTC Co Georgia Senior Manager, addressed to the residents of Rustavi describes “the multi-stage control system for the pipeline and other instruments beginning with their manufacturing and ending with their installation. For example, the pipes produced in Japan exclusively for this project are X-ray tested for invisible defects. The same inspection is also carried out in Georgia after the sections have been welded. For this reason, the project was approved by the Georgian and foreign experts, and the government – namely, the Georgian Ministry of Urbanization and Construction – granted a construction permit on the basis of their approval.”

It appears that concealing important reports from lenders and governments works as the best strategy to get funds and approvals for BTC Co, as well as being a means to garner wider public support.

¹¹³ Memorandum from R. Hensman, BP’s senior project engineer, to T. Osborne, BP materials consultant for BTC project, 27 July 2002, quoted in Trade and Industry Select Committee, Ninth Report, Session 2004-05, 4 April 2005, Implementation of ECGD’s Business Principles, Written Evidence, Memorandum of Michael Gillard, <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmtrdind/374/374we07.htm>

As BTC Co. admits, the key driver to the selection of SPC 2888 was the pipeline cost-challenge. A further key driver to the selection of the field joint coating was the step change in HSE. Specifically, as the company states, many of the available field joint coatings are far less resistant to penetration than the pipeline coating itself and require that fine materials be placed around the pipeline during construction. This necessitates the importing of fine materials from borrow pits and the exporting of rock from trench. The company believes that this would result in a “significant number of truck movements (with increased safety risk) and environmental impact of excavations for fine and dumping of superfluous rock”.¹¹⁴

Despite the desire of the company to find an optimum technical and commercial solution, in autumn 2003 it was discovered that the pipes in Georgia and Azerbaijan, which were already buried, were experiencing defects and cracks. In November 2003, the BTC Co. stopped construction for 10 weeks. The official reason of halting construction was declared to be bad weather.

It should be mentioned that at exactly the same time BTC Co. was negotiating the terms of the contracts with the IFC and the EBRD regarding loans of approximately USD 600 million, as well as with a number of other lenders.¹¹⁵ Therefore, BTC Co. expressly concealed this information from the lenders and governments, though according to the terms and conditions of the credit agreement BTC Co. is obliged to inform investors about any issues that could put the integrity of the pipeline at risk¹¹⁶. **Meanwhile BTC Co. was obliged under the ESAP to notify lenders and governments¹¹⁷ about the cracking incident “as soon as practicable and in any event no later than three days of becoming aware of the incident”.**¹¹⁸ Later the sponsor of the project explained this fact by the motivation that this was a minor issue, not worth bringing to the attention of the governments,¹¹⁹ nor apparently to lenders.

¹¹⁴ Project Report: Mainline and Field Joint Coating issues: Georgia, AGT Project Report, UO3, 01.06.2004

¹¹⁵ Like the US OPIC and the UK ECGD.

¹¹⁶ Baku-Tblisi-Ceyhan (BTC) Crude Oil Pipeline: EBRD Management’s Response to NGOs Queries, February 23, 2004, which states, “BTC Co did not inform EBRD, or other lenders or relevant Ministries of the technical problems with the field joint coating material and its specific application.”

¹¹⁷ It should also be noted that the MoE received information about the welding/coating problems from the media and NGOs and not from the BTC Co.

¹¹⁸ Environmental and Social Action Plan, as agreed at financial closure, February 2004, para 6.7.1.6, “Lender Incident Reporting –Serious Incidents (including Level III non-compliance)”, p.70, <http://www.caspiandevlopmentandexport.com/Files/BTC/English/ESAP/ESAP/Content/Main%20Document.pdf>. Also: Environmental and Social Action Plan Operations, para 6.8.9, “Lender Incident Reporting – Serious Incidents (including Level III non-compliance)”, April 2005, p.55, http://www.caspiandevlopmentandexport.com/Files/BTC/English/Operation%20Plan%20ESAP/Content/FINAL_BTC_Operations_ESAP.pdf

¹¹⁹ Interview with Tamar Lebanidze, Minister of Environmental Protection and Natural Resource-

In February 2004, research performed by Worley Parsons for BTC Co. revealed that at least 26 percent of the welded and coated pipes in Georgia had defects. In addition, according to a BTC Co. report of June 18 it turned out that in a number of cases SPC 2888 did not adhere to the external polyethylene layer of the pipe. In addition, in Georgia it found that in some cases even the polyethylene layer has peeled off from “a large proportion” of the steel pipe.¹²⁰ The very same report meanwhile stated that BP limited the extent of adhesion tests based in part on “the desire to reduce repair frequency.”

However, according to ABN AMRO (a private investor in BTC): “First of all, the BTC Company assured ... that the statements in the above-mentioned article have been thoroughly investigated to its full satisfaction. In addition, the company has indicated (and publicly stated) that the construction, operation, inspection and testing processes are carried out rigorously to the highest industry standards.”¹²¹

However, a public statement from the BP side never came out on this issue. According to an answer from the ECGD to a UK parliamentarian question, “None of the pipes are coated with SPC 2888 the field joint coating, which is only used on the joints. There were reports of minor hairline cracking in the field joint coating over joints. ECGD has been informed through a WorleyParsons desktop study report that the percentage of unburied coated joints that experienced cracking in the field joint coating was as follows: (a) 2.6 per cent. in Azerbaijan, and (b) 26 per cent. in Georgia. No pipes were buried with defective joint coatings.”¹²²

In November 2004, the Georgian Ministry of Environment stated¹²³ that: “the break up of the joint welds of the pipes was caused by non-compliance of the technological regime, in particular, in the process of manual welding the required temperature regimen was not complied with, which caused appearance of micro cracks at the welded joint.” According to a statement by BTC Co., as of November 17, 2004, 2 000 welds were examined out of 3 100; among them 147 were found to be defective and these welded places were either cut and welded again or repaired. It should also be emphasised that Jacobs Engineering,¹²⁴ at the request of the Georgian government, prepared a report regarding the welding and coating of the pipes. According to this report the problem

es of Georgia; Rustavi-2.

¹²⁰ Trade and Industry Select Committee, Ninth Report, Session 2004-05, 4 April 2005, Implementation of ECGD’s Business Principles, Written Evidence, Second Memorandum of Michael Gillard, paragraph 109, <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmtrdind/374/374we07.htm>

¹²¹ Paul Mudde, Vincent van Assem (ABN AMRO) response to FOE Netherlands on February 23 letter, 2004.06.02

¹²² [www.House of Commons Hansard Written Answers for 28 Jun 2004 \(pt 14\)1.htm](http://www.HouseofCommonsHansardWrittenAnswersfor28Jun2004(pt14)1.htm)

¹²³ Letter from Zaal Lomtadze, Deputy Minister of Environmental Protection and Natural Resources of Georgia to Green Alternative.

¹²⁴ Jacobs Engineering Group is the Technical Advisor of the Government of Georgia in the World Bank’s Energy Transit Institutional Building Project.

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could be solved and BTC Co had already eliminated the defects. However, it should also be noted that Jacobs Engineering did not perform field-testing. The company simply analysed the documents submitted by BTC Co.¹²⁵

Meanwhile, two contractors - AMEC and the Consolidated Contractors International Company (CCIC) - have been in dispute with BP over who is responsible for the delays and costs overrun that have followed the predicted cracking of the coating. CCIC have even threatening to take BP to court in London.¹²⁶ BP blames the contractors for poor application of the coating. However, CCIC and Amec claim BP forced them to use a coating with no track record, despite warnings from its own experts that the pipeline would rapidly corrode. An independent expert assessment commissioned by the CCIC concluded that even after the remedial measures adopted by BP, the SPC field joint coating is still cracking. This suggests the pipeline will corrode, and is therefore, in effect, uninsurable.

According to Derek Mortimore and other corrosion experts, the only course of action that would remove these risks (and potential liabilities) would be the re-coating of the field joints in Azerbaijan and Georgia with a coating that is fit for purpose. A number of NGOs¹²⁷ sent a letter to the Board of Directors of BP to inform them about potential legal proceedings at any time in the future against BP as a result of any damage to affected people's property or that the environment may suffer as a result of leakage from the BTC oil pipeline and the accompanying South Caucasus gas pipeline, which uses the same coating.

In response, BP's board of directors¹²⁸ stated that as BP is not sole partner in BTC Co, they are not liable if something should happen to the pipeline. However, BP was responsible for choosing the contested coating for the pipeline in Azerbaijan and Georgia and for signing it off as "fit for purpose". There is little difficulty in concluding, therefore, that BP Plc may be liable if the pipeline leaks and causes personal injury. Nevertheless, the very fact that BP has already attempted to deny its leading role in the BTC construction brings about quite interesting speculations.

BP and BTC Co feel themselves satisfied with undertaking work to fix the problems and to provide the pipeline safety. However, there are widespread concerns among the affected people especially in Georgia, with residents of various villages fearing that technical problems with the pipeline could threat-

¹²⁵ BTC Project: Support During Pipelaying, Audit Report on Pipe Welding and Coating; Technical Paper TP 34; Technical Advisor to the Georgia East-West Oil Corridor, March 2005.

¹²⁶ Gillard, M. and Connett, D., "BP 'covered up' pipeline flaw", *The Sunday Times - Business*, April 17, 2005.

¹²⁷ Letter on Baku-Tbilisi-Ceyhan Pipeline: Potential Liabilities Arising from Use of SPC 2888 to Sir Peter Sutherland, Director BP Plc, 11 August, 2005, The Corner House, UK, Green Alternatives, Georgia, Center for Civic Initiatives, Azerbaijan.

¹²⁸ Reply from David Pearl, Deputy Company Secretary, BP PLC, 19th August 2005.

en their lives and livelihoods. Those fears increased when villagers witnessed how BTC Co buried and then dug the pipeline within the period of a year.

9. Project monitoring: non-sufficient safeguard to bring improvements

The World Bank's Board of Directors approved the 9 layer monitoring system for the BTC pipeline. The IFC staff convinced the Board of Directors that the IFC 's role in the projects is to "(iii) provide leadership in designing a framework and oversight mechanism for the development and operation of the projects in an environmentally and socially sustainable manner".¹²⁹

Despite the famous multi-levelled monitoring procedure, the question of information deficiency is still crucial. It is also unclear as to when and how BTC Co. should eliminate the defects and solve the problems that have been discovered at the different levels of the project implementation. For example, it is absolutely obscure what actions were taken by BTC Co. after the publication of the Monitoring Panel review of the Resettlement Action Plan,¹³⁰ or what were the results of the Mott McDonald's report, which was initiated by the investors.¹³¹ The report outlines a broad scope of problems, among which are: the lack of environment and social security experts hired by the contractor; the low level of the staff's environmental awareness; audit and self-audit problems in the company as well as its subcontractors; insufficient effluent treatment and its mixing with drinking and irrigation water sources; problems in fulfilling obligations, especially with regard to noise and other pollution. It should be noted that there have been as many as 300 demonstrations and road closing protests connected to the pipeline construction since mid 2003.

It should be also mentioned that regardless of the fact that construction started in early 2003 and that BTC Co. is obliged – in accordance with the ESIA Report – to provide all specific management plans prior to the commencement of construction, most of the plans were not prepared until late autumn 2003, and part of them have not yet been translated to local languages. Due to the fact that the management plans were not agreed with the local authorities and that BTC Co. has not fulfilled the obligations provided for in the ESIA report, the population is facing major problems that directly affect its welfare, cause threat that some of them will stay homeless because of inappropriate transport management schemes and using explosives close to the households, destroying roads and water infrastructure.

¹²⁹ IFC/R2003-0179, Azerbaijan Republic, Georgia, Turkey , Proposed Investments in ACG Phase 1/BTC pipeline Projects , October 16, 2003

¹³⁰ SRAP monitoring panel report, August 2003.

¹³¹ Baku-Tbilisi-Ceyhan (BTC) Pipeline Project Pre-Financial Close Environmental & Social Construction Monitoring, September-October 2003, Mott Macdonald report.

A number of events also bear witness to NGOs' concerns that the implementation of the project's environmental management plans are far from ideal. *Azeroil* (September 10, 2005) revealed that David Woodward, BP associate president in Azerbaijan, had unsuccessfully attempted to slap down the Azeri Ministry for Environment and Natural Resources over the ministry's attempts to claim compensation for blatant breaches of Azerbaijan's Protection of the Environment Laws connected with BP's oil extraction.

At the end of July 2004, the Government of Georgia required BP to halt work on the Borjomi section of the pipeline construction. According to the Minister of Environment the company had failed to provide contractually required environmental information. In reality, BP had not implemented the Environmental Permit conditions issued on 30.11.2002, including the fact that BP had not presented to the government a technical design concerning how they will go through the highly disputed 17 km of the Borjomi section, claiming that there would be alterations during the construction. BP failed to comply with condition 1 "to elaborate additional risk mitigation measures", "feasible with respect to technical, technological, management, supervision and monitoring aspects of the project" as well as condition 9 related to the security of the pipeline against the risk of intentional third party interruption in the Borjomi area. The highlighting of the security measures for the Borjomi area was based on the fact that the Environmental permit recognises the region's significant environmental, economic and historical role for Georgia, as well as the fact that it represents a high geohazard risk area.

The minimal design changes introduced by BP failed to satisfy the security, technical and environmental advisors of the Georgian government.¹³² The appropriate security, technical and environmental mitigation measures proposed by the Georgian party, with support from the IFC and EBRD, were simply ignored by BP.¹³³

¹³² In spite of a number of demands, the BTC Co. has not presented a security plan to the Georgian government, which would ensure those necessary measures in order to achieve a "close-to-zero risk". Therefore, the Georgian government engaged the services of Jane's Consultancy; an international company specialising in security issues. Having examined the issue, the company concluded that the probability of third party interference in Georgia is high, and an adequate response would take too much time. The company submitted the following recommendations to the Government of Georgia: the pipeline in the Borjomi region must be buried at a depth of at least 3 metres, together with the relevant protective constructions, in order to ensure the protection of the pipeline as well as to block and check valves.

¹³³ BTC Co. argued that due to the complicated terrain, increasing the burial depth of the pipeline in the Borjomi region, the Tskhatskaro-Kodiana section, would result in significant delays to completion of the project almost for three months. It has to be noted that the company has not presented any documentary proof, with the exception of a letter from the coordinators of the BTC pipeline project from the EBRD and the IFC, stating that the EBRD and the IFC are satisfied with the measures already taken and have deemed the safety measures to be in line with

Pipeline construction was restarted only on August 10, 2004 when, according to the government, they accepted a guarantee from BTC Co. However, high level pressure brought to bear on the Georgian government was also notable, including the visits of high level US envoys to the region. According to the President of Georgia, Mikheil Saakashvili, "BP must take all measures to ensure the ecological safety of the Borjomi Gorge. The company tried to complain to us in Washington but it will not work".¹³⁴

Thus, with the support of the EBRD and IFC, BTC Co. refused to meet the legitimate demands of the Georgian government concerning the fulfilment of Condition No. 9 of the Environmental Permit.¹³⁵ Consequently, on July 22, 2004, the construction of the BTC pipeline in the Borjomi region was stopped. The halt was followed by visits of a number of high-ranking officials in Georgia, including USA Assistant Secretary of State for European and Eurasian Affairs Elizabeth Jones,¹³⁶ Deputy Prime Minister of Azerbaijan Abid Sharifov, the chairman of BTC Co., Natik Aliyev, and other investors.

The halting of construction was also the main agenda item during an informal visit of the Georgian president to the USA. As the President stated, his administration would continue its monitoring of BP: "the BTC pipeline has very great value for us, because this project underlines the strategic importance of Georgia. But the health of my citizens is also important for me¹³⁷... Our environment is fragile. BP has agreed to dig deeper and ensure over-the-surface protection ... We won't be bullied by BP ... Here in Washington they are pressuring us ... We are not a banana state and we still have issues with them [BP]".¹³⁸

Permission to re-commence the construction was issued by the MoE on August 4, 2004. As the Government of Georgia stated, according to the agreement, BTC Co. had to submit guarantees that a safety plan for the Borjomi zone would be prepared and that the pipeline would be buried at a depth of 2 metres. It should be mentioned that the above obligations have not since been reflected in any official public documents emanating from BTC Co.

international standards. At the same time, the authors of the letter declare that the decision to increase the burial depth might influence the lenders' financing of the pipeline project.

¹³⁴ Construction of BTC pipeline resumes, *Messenger*, Tuesday, August 10, 2004, #149 (0673).

¹³⁵ As the Executive Director of the BTC Co. Mr. Michael Townsend stated, "We have submitted all the required documents to the Government of Georgia. We are not going to perform any additional work. So many documents have already been prepared related to the EIA, that if we spread the pages, they would cover the whole pipeline route"; "BP Shames Georgian Government", *Mtavari Gazeti*, July 27, 2004,

¹³⁶ "U.S. official reviews S. Ossetia and BTC", by Christina Tashkevic, *The Messenger*, August 2, 2004, #143 (0067).

¹³⁷ "Construction of BTC pipeline resumes", by Christina Tashkevich, *The Messenger*, August 10, 2004, #149 (0673)

¹³⁸ "We Won't Be Intimidated", *Transitions Online*, August 9, 2004.

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The story of the environmental permit implementation developed in a very interesting way. According to a BTC Co press release, “Mr. Michael Townshend, Chief Executive Officer of BTC Co, signed the protocols – relating to pipeline security, completion of additional work under BTC’s Environmental Permit and the creation of a new grant programme for Georgia – with the Prime Minister, His Excellency Mr. Zurab Zhvania on Sunday 10th October.”

On October 10, three agreements were signed:

(1) A **Security Protocol** which will formalise obligations concerning the provision of pipeline security in a manner consistent with international security and human rights undertakings, including the Universal Declaration of Human Rights and the Voluntary Principles on Security and Human Rights.

(2) In connection with this Protocol, an **Agreement on Provision of Security Equipment & Facilities** for the Borjomi region. Through this agreement, BTC Co. will provide the government with a range of necessary, non-lethal items including vehicles and accommodation for government security personnel, together with maintenance support. The total value of the items to be provided is USD 6 million, with maintenance support of USD1 million per year for the life of the pipeline.

(3) **Agreement on Establishment of a Grant Programme for Georgia.** Under this agreement, BTC Co. will provide a series of grants to the Government, which are to be used for the funding of social and economic projects for the benefit of the people of Georgia. The total funding for the programme amounts to USD 40 million through to 2010, with a further USD 1 million per year for the remaining life of the pipeline. The first grant payment is USD 9 million.

After receiving the USD 46 million the Georgian government discontinued its activities related to the implementation of the Environmental Permit requirements. It appears that this money was given to Georgia as a way of admitting the “completion of additional work under BTC’s Environmental Permit”.



“Trouble never comes alone”

Georgian proverb

The development impact of the BTC pipeline remains a subject of much discussion within the region. However, more and more experts and ordinary people are shifting their mind towards the fact that the so called political benefits of the pipeline have simply been outweighed by the negative socio-economic impacts of the pipeline's construction within the countries of its operation.

Other than the specific economic and financial assessment, what has been the real impact of the pipeline's construction on poor villages and people alongside the route? Fact finding missions, field trips, interviews with local communities and people, independent journalists' investigations have all revealed enormous ancillary damage within the countries of operation.

People are experiencing drastic cuts to their livelihoods because of improper land compensation, ancillary damage due to construction work and explosions, the negative impacts of the pipeline construction on local business and income generating sources. For a region renowned for its poverty, the activities of BTC Co and the states involved in BTC construction have had drastic impacts.

1. Land compensation

Land compensation related to the BTC project is still a problem in all three countries. In a number of cases people whose lands have been used by BTC Co. have still not been compensated, or have received minimal compensation.

BTC Co. clearly defines the 44 metre pipeline construction corridor and via the HGAs took responsibility to acquire land parcels from land owners, pay compensation and launch pipeline construction work only upon completion of such actions. In the case of state land, BTC Co obtains the required right of way without any compensation. **Despite the fact that the IGA and HGAs according to the BTC Co were developed to bring uniformity in project implementation in all three countries, ultimately, alas, land compensation and resettlement have been carried out in different ways.** In Azerbaijan, Georgia and Turkey people receive different compensation for the land corridor: in Turkey it is less than USD 1 per square metre, **in Azerbaijan it is USD 1.5 and in Georgia USD 3.** However, uniformity prevailed in all three countries in terms of violations of the World Bank's involuntary resettlement policy 4.30

Around 30 percent of the land in Georgia is still under dispute, mainly due to an improper land inventory. The situation has become more fraught as BTC Co, for non-well specified reasons, bought private land in Georgia to get the Right of Way. Since the Soviet era, the break up of the new land inventory has not been conducted in land-scarce Georgia or Azerbaijan. Despite the fact that in 1996-1997 the first land reform has been carried and all citizens of Georgia received entitlement to land. However, most of them have no documentation and maps on hand. In September 2003, during a stakeholder meeting in Tbilisi, IFC and EBRD assured all landowners that after unsatisfactory initial land inventory conducted by the Georgian government, BTC Co was undertaking an incredible job in order to finalise the land inventory and thus nobody would have any problem with land compensation. There was significant dissatisfaction with the proposed compensation and the process of land sale in Georgia. In order to reduce the number of people against selling, rumours were systematically spread to the effect "that the company will expropriate land parcels in case of failure to reach agreement and [the company] was not properly interpreting relevant legislation, which caused a degree of misunderstanding and anxiety among residents who were ready to sell land parcels for offered compensation because they were afraid to lose the offered money as well as the land"¹³⁹.

Actually BTC Co implemented the threat when it used the Law of Neighbouring Tenements instead of the Eminent Domain law to secure the Right of Way on the land of the people that never agreed to sell their land. According to the RAP, developed in compliance with WB OP 4.30, based on the HGA, in the case of reaching an agreement, the BTC Co should have exercised an expropriation right according to the Georgian constitution and legislation. While BTC Co demanded immediate access to the land (of people that refused to sell it) through court demanding necessary of way. The local courts, under the pressure of BTC Co and the state, with a number of strange formulations and decisions that violated Georgian legislation and Article 1 of Protocol 1 of the European Convention on Human Rights, agreed to BTC Co's requests.¹⁴⁰

In Azerbaijan the Azeri government has authorised the rent of land and has distributed compensation for people. As a result people have seen contracts only in during the signing process have problems to understand it.¹⁴¹ The

¹³⁹ Appeal against BTC pipeline company presented in Akhaltsikhe district court – Plaintiff Rafael Gozalishvili, Jimsher Teliashvili (land owners).

¹⁴⁰ BTC Co used the necessary right of way with regard of State or leased state land according to the HGA, while according to HGA and RAP in case of private land it should use eminent domain law, that actually provides more safeguards to local citizens.

¹⁴¹ "Some part of the people in villages have been illiterate. Other part who are able to read, can only read the Cyrillic alphabet. They were not able to read the contract because it was written in the Latin alphabet which became mandatory for all official purposes in August 2001 in Azerbaijan. Many of the landowners indicated that they had not received any assistance from

state also predetermined the amount of compensation by valuation tables that were used for the calculation of compensation and no negotiation was allowed. Some of the landowners claimed that neighbouring fields were given different values despite the same quality of soil and production use.

The situation has been complicated through local corruption and intimidation in Azerbaijan. For example, in the village of Zayam in the Shemkir region, Bankwatch revealed that almost half of the landowners affected by the BTC pipeline have not been compensated as they allege their documents have been falsified by an employee of the BTC Company. And this is not a unique case. In a number of cases it has been revealed that **after receiving** necessary information representatives of local authorities tried to change land documentation where it was possible. This has been evidenced through the discovery of a number of falsified land ownership registration maps in different districts by a fact-finding mission in 2004¹⁴², as well as local groups: in short, local authorities have deliberately altered land ownership in such a way that their relatives received compensation rather than the real owner.

Around 30 court cases, with the support of local groups, have managed to go to court and decisions are still pending. In the villages of Agstafa, Tovuz and Shemkir regions, in a number of the cases people feel that they have not been compensated properly as they got compensation for cultures other than those they used to grow. Such corruption has also impacted on the compensation of municipality lands in local budgets. Municipalities have either received no compensation or have received very low compensation. **Some NGOs pointed out** that in a number of cases the State-appointed local Executive Committees were receiving compensation directly.

The same situation has been witnessed in Turkey, where average compensation was incredibly low even in comparison to Azerbaijan and Georgia. Payments varied between villages, but the average price paid for land in the 8m corridor (maintained by BTC/Botas) was 1.2 Lira [USD 0.8] per square metre in the area visited, while average compensation for the 20m rented during construction was 0.85 Lira [USD 0.56] per square metre.

People have also complained about the unfair compensation calculations that failed to take full account of land productivity or crops grown. A number of people who inherited land and farmed it for a whole lifetime have been denied compensation as they had no registration papers. According to World Bank guidelines, the customary owners are eligible for payments. "In all villages the desire to challenge the compensation paid for land in the 8m corridor was widespread. All villagers, regardless of their religion and ethnicity, had similar

an independent party in understanding the contract." FFM trip in Azerbaijan 2003, available at www.bankwatch.org

¹⁴² International Fact Finding Mission in Azerbaijan, 2004, available at www.bankwatch.org

grievances of feeling shortchanged on the land that provides their income".¹⁴³ It appears that "the comparatively low numbers of court cases is not due to contentedness with the level of compensation received, but instead is a result of widespread lack of belief in and ability to engage with the Turkish court system"¹⁴⁴.

People from all three countries, either complaining in different official remedies associated with BTC Co (including the IFC CAO ombudsmen), or in the case of receiving enough money to pay a court fee, have initiated court cases against the company (there are already 38 pending cases in the European Court of Human Rights).

For all three countries there are the following typical cases regarding land compensation:

- Compensation to other peoples, rather than to the landowner
- Inadequate compensation (for smaller parcel or other parcel)
- Compensation of only 1 year's crops, instead of for the full construction period
- Setting barriers for the people to use the rest of the land
- Non-payment for community lands (Azerbaijan)
- Payments for community land go to the government (Turkey)

While there are different types of problem all of them derive from one simple thing: the Resettlement Action Plan prepared by BTC Co has already dismissed a number of serious problems within the countries, including existing corruption and political regimes, problems with land inventory, and the non-existence of free judicial systems.

¹⁴³ Baku-Tbilisi-Ceyhan Oil Pipeline, Human Rights, Social and Environmental Impacts, Turkey Section, Report of Fact Finding Mission, 18-21 September 2005.

¹⁴⁴ *ibid*

2. Impacts on health and local environment

There are a number of concerns that the local population has with regard to the development of the Azeri-Guneshli-Chirag oil field as well as BTC pipeline construction. For a number of the villages that experience pollution from industrial activity it is very difficult to prove that the business is environmentally health. In a number of cases, the pipeline project harms local businesses that are mainly focused on using renewable natural resources.

Umid village near Sangachal Terminal

Umid is the IDP settlement built close to the expanded Sangachal Terminal and cement plant¹⁴⁵, both in the Caradaqh district, Azerbaijan. The area is one of the most polluted areas of the Absheron peninsula and experiences negative impacts from surrounding infrastructure¹⁴⁶. Local groups suspect that BTC is also incinerating drilling wastes in the cement factory, from which the wind mainly blows towards the city of Primorsk,¹⁴⁷ and Umid village.

The people in Umid connect the increased diseases prevalent in the village and the increased rate of stillbirths with the air pollution from the Sangachal Terminal's gas flaring activities. According to the villagers, there is increased air pollution and smell of charcoal fumes, especially at night. The people are concerned that after the full development of Azeri-Chirag-Guneshli there will be five torches instead of the present two, making the situation even worse. On a number of occasions, the villagers have requested the Sangachal Terminal authority to investigate the situation. An air quality analysis has been done once, but during the day time when there is usually no smell of charcoal

¹⁴⁵ 146 EBRD is planning to finance the Garadagh Cement factory, with EUR 10 million equity. The project sponsor is Garadagh Cement OJSC, lead by Holcim. The project was screened as a C/1 category project that excludes any public participation. While the project goal is to "derive from the demonstration effect of a successful investment in the cement sector and the setting of standards of corporate governance and business conduct. In addition, the contemplated environmental and efficiency upgrade will assist Garadagh in achieving compliance with the EU environmental standards," the exclusion of the Azeri public and not providing them possibility to express their opinion on Cement factory looks quite strange for a Bank committed to "free market economy and sustainable development", see www.ebrd.com

¹⁴⁶ BP claims that drilling waste from the ACG field is not discharged in the sea but shipped onshore for disposal. Waste is being brought to a dump field near the Sangachal Terminal. Bank-watch visited the dump during 2004 and was told that waste products are spread over the field and allowed to dry, then watered again to allow toxic components to sink into the ground. The area is surrounded only by the barbed wire fence allowing dust from the toxic sludge to spread to nearby grazing areas. It is also unclear how the toxic materials leaching into soil affect local environment and soil.

¹⁴⁷ 9 km from a Umid settlement.

fumes. People think that during the day all safety instructions are enforced on Terminal, while at night some of those instructions are violated, leading to increased air pollution.

Tsemi village in the high mountains

During the issuance of the environmental permit, one of the concerns of the Georgian Ministry of the Environment related to the possible pollution of drinking water for Borjomi Region villages due to the construction and operation of the BTC pipeline. Moreover, according to the state environmental permit BTC Co was obliged to carry out “preliminary studies of alternative water supply sources for the population of the Borjomi area to be utilised in the event of drinking water contamination resulting from an oil spill¹⁴⁸”.

In summer 2004, the water supply system in the village of Tsemi, Borjomi district, was fully contaminated – resulting in cases of dysentery and the termination of the holiday season, causing heavy financial losses for the local community. At the same time, the water supply systems of the villages of Sadgeri, Libani and Tba were under threat. This problem arose from the fact that the company did not carry out adequate preliminary research of the water sources, used by the local population as potable water.

The issue of the possible pollution of the villages of Tsemi, Sadgeri and Tba's water sources has been identified by IFC staff in winter 2004.¹⁴⁹ The investigation, carried out by the CAO, showed that potable water of the village Tsemi had been contaminated due to construction activities. The IFC CAO also stated that the CAO found some confusion about the actual sources of water supplies for Tba, Tsemi and Sadgeri, and continuing concern about possible future contamination of the water table. The CAO recommended that further analysis of the water supply to the four villages (Patara Tsemi, Libani, Didi Tsemi and the small railway settlement) should be undertaken by the BTC Co., based on the evidence of runoff contamination from construction.

At the end of 2004 the BTC Co finally installed a water pipe, however the situation was repeated in summer 2005 when the South Caucasus Gas pipeline construction started, with the water once again turning muddy brown. With its clear mountain water gone, Tsemi's tourist industry – its primary source of income, amounting to around USD 150,000 annually – has disappeared. At

¹⁴⁸ Georgian Environmental Permit N0011, November 30, 2005.

¹⁴⁹ WWF International submitted a complaint to the IFC Compliance Advisor/Ombudsman regarding the flawed due diligence process and direct threat to Borjomi Biodiversity and aquifer, as well as local water supply. The complaint was rejected by the Ombudsman based on the suggestion that WWF International does not represent directly affected party. The different villagers from Borjomi region joined the complaint, while it again was rejected as the complainants could not prove direct harm, the IFC CAO staff during the appraisal visit assessed that Tsemi, Sadgeri and Tba are potential victims. In a few months their suggestion has been proved.

the end of 2005, through the CAO's office, an agreement has been reached that a meeting with a BTC Co engineer would be held regarding a new 2 km water pipe, that villagers contribute labor toward installation of the replacement pipes delivered by BTC. As of now the works have not been finalised.

Regarding the lost incomes for last two years of the tourist season, the villagers have no hope, due to the fact that most of them just rent out their houses during the summer without any official records, meaning that they would hardly be able to convince BTC Co that Tsemi had been one of the most popular children's spa ins Georgia, before the BTC pipeline construction started.

3. Ancillary damage

3.1 Problems caused by traffic vibration

As of now there has been no specific assessment of what is the real impact of the BTC pipeline on poor villages and people living along the route. However, it is clear that ancillary damage is substantial.

According to WB Operation Policy 4.30, it is necessary to provide full compensation of caused losses. The BTC Co. undertook that: "Where damage cannot be avoided cash compensation based on full replacement cost (as required by World Bank), or replacement structures/facilities will be provided. The full reinstatement options will involve direct replacement of the structure with no cash transaction taking place. In addition, the construction contractor will assess and document the likely impact on buildings at particular risk and considered sensitive close to project traffic routes"¹⁵⁰.

Though there are such commitments, the populations of almost more than 30 villages in Georgia and Azerbaijan periodically go on strike, write letters requesting help to the government, submit claims to the IFC CAO and EBRD IRM, and, those who are able, apply to the court because of the damages caused by the BTC pipeline construction.

Of the people who have complained regarding the negative impact of heavy traffic on their houses, that in last three years have starts to fall apart after BTC started its construction activity close to it, almost all have received the same standard and routine answer: "The BTC pipeline construction contractor Spie Petrofac, has reviewed your complaints related to alleged damage to the houses and buildings, due to vibration from pipeline construction traffic on nearby roads. SPJV has several years working experience on pipeline

¹⁵⁰ Commitment N3 Register of Environmental and Social Commitments, the BTC Co.

building in different countries using its machinery and transport and for the first time in Georgia is facing this kind complaint from local residents.”

Moreover, in any case the company pretends that it just carried out the testing, and sometimes indicates places far away for complainants. After receiving hundreds of the same type of complaints, BTC Co came up with a great decision that Spie-Petrofac denied the possibility of damaging the houses: “heavy truck movement does not cause serious results, except for low frequency sine vibrations. The primary damage of the houses should be caused by non-correct studies of landscape, while these buildings have been constructed”.

So the situation is as follows. The houses of three citizens of Tadzrisi village, Borjomi region, G. Gogoladze, B. Balakhadze and M. Balakhadze, are 30-40 metres far from the construction corridor. These villagers from the beginning have been against being neighbours of the pipeline. G. Gogoladze did not even allow the company to construct the pipeline in his yard; however, the situation has not changed much. After construction started, around 20-30 heavy trucks passed daily around the villagers’ houses – as a result there is great disturbance due to the noise, and dust and cracks in houses. After a number of letters of complaint, the company arranged the testing through bringing two pipe trucks and an excavator, and concluded that the construction has had no impact on houses and underlined that these houses were already in a bad condition before the construction.

People who have experienced problems with cracked houses have raised complaints through the BTC pipeline project’s grievance mechanism and in a number of cases managed to get to the IFC Ombudsman’s table. During the reviewing of complaints, people do not trust the BTC Co monitoring team. The assessment done by the IFC CAO Ombudsman staff recommended the BTC Co to create an independent grievance mechanism at least in Georgia in order to assess existing damage.

As a result BTC Co subsequently commissioned Mott Macdonald to carry out an independent assessment of the vibration testing and monitoring undertaken to date for the AGT (Azerbaijan-Georgia-Turkey) Pipelines Project. A company representative during three days was visiting and visually observed the cracks in around twelve villages; the scope of the work also included examining BTC Co’s vibration monitoring and test reports, and its carrying out of cursory analysis to investigate the relative magnitude of stresses from different causes.

According to the Mott Macdonald report “in general there is a lack of confidence in the robustness of the monitoring carried out” “to accurately assess traffic

vibrations,” “it is considered there are shortcomings in the adequacy of the monitoring when subject to International scrutiny” and “recommended that any future traffic mentoring is carried out to international standards”.¹⁵¹

In conclusion, the Mott Macdonald report admits that: “It is considered that, based on the values recorded to date which are of the order expected from predictive calculations according to TRL report 246, the vibrations are unlikely to be the primary cause of cracking in the structures... In conclusion, although the process of monitoring traffic induced vibration was not as robust as it should have been, the values measured have been shown to be generally credible based on the TRRL¹⁵² closed form solution for prediction of traffic induced vibration.” The conclusion also includes some reservations such as: “the lack of information on road conditions at the time of receiving complaints and the subsequent monitoring exercise does, however, leave some uncertainty as to the full suitability of the measured values, since the vibration at the time of monitoring may have been different (better or worse) than at the time of the complaints”.

3.2. Damage from blasting operations

Based on World Bank Policy 4.30 on involuntary resettlement, BTC company undertook a commitment that: “Where there will be planned diversion to infrastructure or services, this will be identified by the contractors with as much advance warning as possible. The timing and duration of the diversion will be agreed between contractor and the affected party. Where infrastructure is damaged, the timetable for repair of infrastructure will be agreed with the authorities and the communities”¹⁵³.

¹⁵¹ Specifically, the report addressed the following problems in BTC vibration monitoring, as: 1) The personnel responsible for monitoring had no specialist background or training in vibration, 2) none of the instruments had been re-calibrated at the time of the assessment at the beginning of September 2005, 3) The instrument was generally set up on a solid floor or window sill near the cracks, as that was assumed to be the location of highest movement, whereas standards recommend that the preferred position is at the foundation, 4) Not all output data have been provided so it is not known what activities (if any) were recorded during the intermediate events, 5) The duration of each recorded event used in the monitoring is shorter than ideal, 6) Higher vibration levels may have been missed during the automatic sensor check period, made after each recording, 7) The traffic surface at the time of monitoring may have been different to the condition at the time related to the complaint. In one case the road surface is known to have been repaired before testing, 8) The controlled nature of the monitoring, and the awareness of drivers to the purpose, may have resulted in potholes being avoided at faster speeds, 9) There is some uncertainty as to the actual weight of the vehicles used in some locations during the monitoring, 10) There is limited assurance that actual traffic conditions and vehicle weights were included and there is no comparison with other traffic that used the road.

¹⁵² Transport and Road Research Laboratory (TRRL) report Number 246 “Traffic induced vibrations in buildings”, 1990.

¹⁵³ Source: BTC Environment and Social Impact Assessment, Table 11.5.2.1, N 22 (add).

In December 2003, BTC Co carried out blasting to clean up 44-metre construction in Tetrtskaro city, Georgia. The residents were not warned of the time and place of the first or subsequent explosions. A local resident remembered that at the moment of blasting she felt that somebody was blowing up her house and that she thought only about getting out with her children. In addition around 20 houses, located close to the corridor (50-60 metre), were severely damaged, the main support walls were cracked and developed vertical and horizontal fissures of 3 to 6 metres in length and up to 5 cm in width.

Despite lodging a complaint through the BTC grievance mechanism, BTC Co only took a picture and did not take any other steps. At the end the BTC Co subcontractor suggested to people to pay around USD 100 in the form of cement to plaster the cracks.

A complaint was also subsequently lodged under the IFC Ombudsman and after a year and a half BTC Co commissioned Mott Macdonald to carry out an independent assessment of the blasting vibration assessment monitoring undertaken to date for the AGT (Azerbaijan-Georgia-Turkey) Pipelines Project. According to the report “the Project requires an assessment to confirm whether vibration during trench blasting could have caused structural damage claimed by the residents in the vicinity”.

The conclusion of the Mott Macdonald report indicates that: “Limited modeling within the scope of this report suggests that stresses induced by vibration of the order recorded on site are unlikely to be sufficient on their own to cause cracking, but may be a contributory factor.”

The report also underlined that: “There was some uncertainty as to the appropriate data for Tetrtskaro as provided in the Scope of Work Appendix 1 (see A.2 of Appendix A) based on location and dates”, namely a Table of peak vibrations for a total of 119 blasting events does not appear to include the relevant Tetrtskaro blasting (KP 81), with identified cracked houses 130m from the pipeline (as included in the Scope of Work Appendix 1) of blasting activities.¹⁵⁴ There were a number of other uncertainties indicated by the company¹⁵⁵

¹⁵⁴ Blasting Vibration Monitoring Assessment, Mott MacDonald.

¹⁵⁵ Ibid. “From the information supplied the blast monitoring was carried out using a UVS 1504 vibration monitor, manufactured by ABEM Instrument AB of Sweden. There is no information of the calibration status of the equipment used for this monitoring.

Information in the header of a velocity plot included in the Scope of Work Appendix 1 (see A.2 of Appendix A) shows that the trigger levels were set to 5mm/s and the recording duration was set to 2 seconds. The trigger level is considered appropriate for the expected level of vibration, but the duration of the record is considered too short since after 2 seconds there is still significant activity present on the trace and it is possible that a later peak has been missed.

The peak velocity v frequency has been plotted for the estimated blasting value at Tetrtskaro

The concerns about ancillary damage from traffic and blasting vibration come from the poor villages, located very close either to roads or construction sites. People disturbed with construction noise and dust have discovered that they have a new headache: how to sustain their lives in cracked houses. As was underlined in the Macdonald report, almost all of the houses were not constructed according to “international standards”. Some of these houses have a history of more than half a century; they may never have been perfect but they gave people a roof over their heads.

Nino Beridze , a 79 year old single woman from Sagrašeni village, Georgia, witnessed heavy trucks passing close to her house for the last four years. Despite the fact that according to the project documentation the trucks should use a different route, every day during the construction period BTC trucks not only brought pipes for construction site , but they also used the same road to take the concrete blocks from the Tetrtskaro cement factory to other construction sites. Living on a pension and sustaining herself with her fruit and vegetable garden, she “understands” the importance of the BTC pipeline for the country; the only question she needs an answer to is why her house has started to crack since 2003?

4. Failure of the grievance mechanism

In order to easily and effectively resolve the grievances of the affected communities during the construction phase of the BTC pipeline project, the BTC Co. committed to establish a mechanism for submitting complaints and resolving disputes. It was considered to be one of the main safeguards for the project according to a number of IFC and EBRD documents. At the same time, from the BTC Co. point of view, grievances can provide an indicator of the quality of the work performed within the BTC pipeline project. Thus, in case of an increasing number of complaints, the BTC Co. and its construction contractor might discuss the possibility of adjustment of work practices or procedures in order to reduce adverse effects and conflicts with affected households and communities.

and compared with the codes. This shows that the level is above the BS 6472 curves for human perception and the DIN 4150-3 Lines 2 and 3, which could cause cracking in plaster on a wall, for a “sensitive” structure deemed to be more susceptible to damage than a standard dwelling/building. Using the recommended variation of 10% on US standards by Holycross these limits would also be exceeded. However, for buildings approximately 230m from the blast, the expected level of vibration is predicted to be only 0.1mm/s.

Observations made during the site visit suggested that there was no fundamental difference in the extent or severity of the cracking in various houses inspected over a distance of approximately 100m between those closest (estimated 135m) and furthest (estimated 230m) from the blasting location. Only one example (of 7 houses inspected) was noted to show what appeared to be a recent crack, which was not the house closest to the blasting.”

However, the grievance mechanisms failed as in Georgia as well as in Azerbaijan. In Georgia the failure has been illustrated by affected communities who arranged more than 300 peaceful rallies, road blockades and stopped construction work since 2002. It is also highlighted by the amount of submitted complaints (2500 to BTC, 600 to subcontractors) and 17 complaints submitted to IFC CAO/ombudsmen regarding the violation of socio-economic rights.

While BTC Co. claims that it has successfully finalised more than 70 percent of the complaints, it should be mentioned that in a variety of cases the people received standardised answers often unconnected to the original request. It should be mentioned that in Georgia BTC Community liaison officers have been directly in charge to collect and deal with the complaints, and sometimes it was very tricky to push them to place a complaint on the record.

In Azerbaijan, where the grievance mechanism directly involves local authorities, the situation is much more difficult. Local authorities have directly opposed the investigation of any complaint and have harassed the affected people, journalists (including international ones) in order to prevent the investigation of cases related to land compensation or ancillary damage. While the BTC pipeline construction is a so-called "State Affair" in Azerbaijan, the significant added value in resistance to proceed with complaints is brought by ordinary corruption among local authorities during the land compensation and community investment programs.

EBRD IRM case

The situation regarding ancillary problems was replicated in Azerbaijan and Georgia. Villagers from the Azeri village of GyraKh Kesemenli expressed their concerns regarding the damage of houses close to the road. A complaint to BTC Co was lodged in November 2004. As a result, in December 2004 the BTC Co local contractor appeared in the village and, without any explanation, paid USD 50-60 to 6 people from 31 complainants. However, explanations regarding the decision to give only those complainants and as to why this amount of compensation have never materialised.

The residents attempted to submit the case to the local court, but the court refused to accept the case, while the decision was provided orally and the people could not get any written answer from the court.

Interestingly, when local people applied to EBRD staff for help to find out why their houses had been damaged,¹⁵⁶ on March 4, 2005 they received an answer which stated: "EBRD has checked the issue through its independent monitoring and raised it with the BTC management. According to the Bank's knowledge the issue is being addressed in line with the relevant

¹⁵⁶ Letter was sent February 28, 2005.

*commitments under the project agreement.*¹⁵⁷

It should not be surprising that local people do not consider this letter to be a clear response to their concerns. It should be mentioned that the people do not recall an independent investigation. What they remember is that some foreigner came to the village (they thought that it was a BTC Co contractor representative) and witnessed the vibration of house due to the heavy truck movement, expressed their regret and left the village. In reality it appears that D'Appolonia, the lenders' independent monitor, visited the village on February 15, 2005. According to the report, "Villagers have not been interviewed but the houses along the access road reported were looked at the context of their village setting and if there was any apparent structural damage to buildings near main road". The D'Appolonia report were following : Complaints have been registered properly by project, seven families have been compensated, the condition of the site is similar to the other locations, where houses are close to the road used by project, it has observed damage to house walls and fences, but did not investigate if they correspond to the families already compensated. D'Appolonia confirms that: "the procedures for the management of complaints has been applied by the Project's social staff." It also confirms that it "didn't investigate the validity of the remaining complaints and/or the appropriateness of delivered compensation." However, D'Appolonia's "basic conclusion is that the situation in Girakh Keseman has been recognized by the project and procedures have been in place to manage the complaints according to ESAP".¹⁵⁸

With the support of the human rights defender Mrs. Mirvari Gahramanly,¹⁵⁹ in August 2005 the people submitted a complaint to the EBRD's Independent Recourse Mechanism requesting an assessment of the compliance between the EBRD staff activity and relevant policies (specifically World Bank 4.30), as well as to undertake measures for problem solving. The complaint contained all relevant documentation, including the payments to some of the community members from the BTC Co. side.

As a first step the IRM refused to continue the compliance review¹⁶⁰, and suggested to the EBRD Board of directors that the complaint is eligible under the problem solving initiative¹⁶¹. The recommendation was approved by the Board of Directors on November 25, 2005. The EBRD's IRM expert travelled to Baku and met BTC Co representatives.¹⁶² The IRM proposed to set up an ad hoc appeals committee to review the complaints from Girak Kesemenli; the committee should include a local representative and should have power, in the case of justification of the facts, to set up specific levels of payments to complainants. Two weeks later, the IRM received

¹⁵⁷ In letter from Doina Caloianu, EBRD Outreach and NGO Relations manager, to Mr. Ismail Nezirli, March 4, 2005.

¹⁵⁸ The D'Appolonia report had been available on the www.caspiandevelopmentandexport.com. Since February this year, the website has ceased to function and the documentation has been transferred to www.bp.com

¹⁵⁹ Chairwoman of Committee Protecting Oil Worker's Rights.

¹⁶⁰ Unfortunately the facts that during the EIA documentation failed to assess all impacts and mitigation measures with regard of transport management plan and rough violation of world Bank 4.30 policy on involuntary resettlement by project sponsor, including non existence of effective grievance mechanism, has been identified in line of EBRD Environmental Policy and Procedures.

¹⁶¹

¹⁶² Including Ian Sutherland, BTC Co commercial director

a letter from BTC Co.'s Commercial director Ian Sutherland: "[BTC Co.] would reiterate that we continue as a project to respond to all complaints and follow through closure. This might not always be to satisfaction of the complainants but we feel we have followed a due process and are unable to offer any more. Consequently we could not agree to the setting up of an appeals mechanism".¹⁶³

As a result, the IRM's chief compliance officer concluded that the problem solving initiative could not go forward as first, BTC Co. denies all liability for damage, and second, the "Bank loan to BTC Co. has been affectively disbursed, the amount of influence that the Bank can assert is minimal."

In almost all communities people are asking for fair, independent evaluation of pipeline impacts over their livelihood (land compensation, ancillary damage and so on) and for fair compensation of their losses. There is no longer any trust of the company's grievance mechanism, neither for any of the redress mechanisms attached to the international financial institutions.

5. Local business development

During the lead up to project financing for the BTC project, the IFIs (IFC and EBRD) underlined that they were "working on a variety of initiatives to translate the increase in economic activity into benefits for the population. These initiatives include SME development, training and co-financing programmes".¹⁶⁴ In 2002 those initiatives were "at an early stage". However, in 2006 it is still very difficult to see how these initiatives are contributing to the aforementioned plans and what the direct impact of those initiatives has been on vulnerable groups.

According to the project proponents, in order to "increase the positive impact of the BTC pipeline on community life, BP has planned to launch a new Regional Development Initiative (RDI). This initiative will support the economic development of the BTC host countries but will also aim at targeting those areas and communities where BTC does not physically pass (beyond the 4 km corridor.) The EBRD and BP have each earmarked up to USD 25 million in grants and loans for this initiative with other members of the BTC consortium expected to join with further funding up to USD 100 million. The initiative will be launched in mid-2005."¹⁶⁵

However up to now the only investment is the agreement of BP and EBRD under which ProCredit Bank of Georgia, the country's only specialised

¹⁶³ Independent Recourse Mechanism (request number 2005/2), Baku–Tbilisi–Ceyhan Pipeline complaint, Problem solving Initiative Report, February 10, 2006.

¹⁶⁴ IFC response to joint NGO letter, September 12, 2002.

¹⁶⁵ The Baku-Tbilisi-Ceyhan Pipeline: Implications for Azerbaijan, Svante E. Cornell and Fariz Ismailzade, www.silkroadstudies.org

microfinance bank, will receive USD 750,000 of technical cooperation funding to open three branches in the region. It should be mentioned that EBRD holds 10 percent and IFC 13 percent of Procredit Bank of Georgia. According to an EBRD press release, through opening three branches Procredit would be able to provide USD 7.6 million in loans in these regions in the next two years.¹⁶⁶

Impact on the Georgian economy

As a result of the IFC/EBRD's flawed due diligence process the BTC pipeline route poses the greatest environmental threat where it crosses the Borjomi Valley in central Georgia. The Borjomi region is one of the most well known tourist destinations in the former Soviet Union and the most popular resort in Georgia, famous for its rich biodiversity and world-renowned mineral waters, which account for approximately ten percent of Georgia's exports. The Borjomi Valley also functions as a support zone for Borjomi-Kharagauli National Park, managed by the World Wide Fund for Nature with the support of the German government. Pipeline construction in this region will therefore affect not only its biodiversity and tourism industry, but also the mineral water industry, that represents 10 percent of overall Georgian exports and currently employs 25 percent of the Borjomi area population.

The pipeline within the catchment area represents a clear threat to the further development of the Borjomi Mineral water and spring water production within the area. That would clearly hurt itself the brand mineral water business that is represented by different companies like GG&MW Company (85 percent of whole production) , Big LTD (7-8 percent) and Borjomi Producers Union (5 percent). It should be mentioned that only Big LTD directly employees 250 people, while overall more than 2000 people are involved in Borjomi mineral waters production and more than 25 percent of the population in Borjomi region is connected with mineral water production. The Georgian Glass and Mineral Waters Company (GG&MW) has two plants bottling Borjomi mineral waters and a glass and plastic bottle factory in nearby Khasuri. About 1200 people are directly employed in the bottling plants.

In 1997, the EBRD and IFC provided USD 20 million for the rehabilitation of the two mineral water bottling facilities, the glass bottle factory, and a distribution network for the mineral water producer for GG&MW. In 1999-2000, the IFC supported the company's plans to acquire key strategic assets and strengthen control over the brand name Borjomi. Today's annual turnover of GG&MW is about USD 60 million, with more than 60 percent of production exported to the former Soviet Union. According to the marketing company "Comcon", Georgian Glass & Mineral Water occupies 42 percent of the Russian mineral water market, selling 15 million bottles in Russia in 2000 alone. Nowadays, GG&MW is expanding at 40 percent per year.¹⁶⁷

¹⁶⁶ www.ebrd.com

¹⁶⁷ The recent banning of Borjomi exports in Russia by the Russian authorities represents a clear example of how countries like Russia could exploit any situation resulting from an oil spill on the pipeline.

In October 2002, IFC sold its shares to a mutual fund, the New World Value Fund (NWVF) limited. According to the IFC¹⁶⁸ “NWVF filed a request for arbitration with the London Court of International Arbitration seeking damages, indemnities and other unspecified equitable or statutory relief, claiming misrepresentation by sellers regarding the impact of the BTC pipeline on the operation of GG&MW... IFC believes that the case has no merit”. However, from communications with governmental officials of Georgia and a number of entrepreneurs, it appears that the Government of Georgia “strongly” advised NWVF to cancel its case in London Court of International Arbitration.

The concerns of NWVF could be easily understandable. The decision to lay the BTC pipeline through Borjomi valley already costs significantly for the local producers. GG&MW, for example, has been refused an investment by French consumer-products maker Group Danone SA into Borjomi mineral waters “unless such a threat both the (water) and indirectly the brand equity has been removed”.¹⁶⁹ Market research carried out by Monitor Group indicates that “the very presence of the pipeline will have a significant detrimental impact on GG&MW. In the highly competitive mineral water sector, brand plays a crucial role in driving market share. The Borjomi brand stands out in Russia, Georgia and the Ukraine for its association with the pure, virgin and natural Borjomi region. Market research indicates that the presence of the BTC pipeline in the Borjomi region is likely to detract from these very positive brand attributes, and influence consumer choice accordingly. The resulting decline in demand will lower expectations of revenue growth and thereby decrease the value of Borjomi.”¹⁷⁰

6. Cultural heritage

“The project will be completed soon. The organisers of the project are proud of the success of the project. I am not sure that it is worth doing this because of the risk to the cultural heritage of the country”.¹⁷¹

Marina Khmaladze, resident of village Atskuri

Since autumn 2004, residents of the Atskuri village have been seriously concerned about damage to the Atskuri Fortress and the Atskuri Cathedral of Mother of God¹⁷² resulting from the BTC pipeline construction. Heavy traffic and light vehicles owned by BTC Co. and its contractors use the road that crosses the village as an access road to the construction corridor. For this

¹⁶⁸ Report to the Board of directors on proposed investments in ACG Phase 1 and the BTC pipeline, October 16, 2003

¹⁶⁹ Letter to Mamuka Khazaradze, President of GG&MW Co N.V, from Nicholas Moulin, Vice President of corporate development, Groupe Danone, November 27, 2002.

¹⁷⁰ Tom Copeland, Managing Director of Monitor Corporate Finance.

¹⁷¹ “BP does not agree to rehabilitate the historical monuments”, newspaper “Samkhetis Karibche”, by Lia Manchkhashvili, Atskuri

¹⁷² With the request of the residents of village Atskuri Association Green Alternative applied to Mr. George Gabashvili, the Minister of Culture, Monuments Protection and Sports of Georgia, letter of August 2, 2004.

reason, the amount of traffic significantly increased in the village of Atskuri. This, on the one hand, affects monuments of Georgian cultural heritage – Atskuri Fortress and Atskuri Cathedral of Mother of God, which are located near the aforementioned road (in its immediate vicinity). On the other hand, the damage to the Atskuri Fortress and Atskuri Cathedral of Mother of God puts the safety of the population at risk.

The Atskuri fortress is a monument of Georgian cultural heritage. The fortress was built in the first century and was in operation until 1829. The Fortress is located on unstable layers and during recent decades some destruction to the Fortress has been observed.

The Atskuri Fortress is located at the road crossing the Atskuri village. From summer 2004, when the BTC Co. and its contractors commenced their construction activities in the vicinity of the village, their heavy traffic and light vehicles intensively moved on this road. The traffic movement caused intensive destruction to the Atskuri Fortress, where small stones as well as large boulders were regularly seen falling. In addition to the risk to the Atskuri Fortress, a monument of Georgian cultural heritage, there is risk to the lives of people living in the immediate vicinity of the road and Atskuri Fortress, including the children who walk to the school by this road and village residents who use this road for access to their land parcels, pastures and hay lands and to drive cattle. In addition, the residents of two villages, Tkemlana and Tiseli, also use this road; therefore their lives are also at risk.

According to BTC Co.'s official materials: **“All construction traffic is prohibited** to use the section of the road that runs directly alongside the castle. Flag persons are on duty to ensure this rule is adhered to by all construction personnel”. Despite a number of complaints from villagers to local authorities and BTC Co. to stop the traffic on road (including giving the numbers of cars), it has never happened.

The Atskuri Cathedral of Mother of God is also a monument to Georgian cultural heritage. The Cathedral was built in the early eleventh century. In the thirteenth century the cathedral was ruined as a result of interventions and it was built anew in the fourteenth century. In 1989-1990 rehabilitation work commenced, which is ongoing. In 2003, conservation efforts were performed on one part of the cathedral within the framework of World Bank Programme for Protection of the Monuments of Georgian Cultural Heritage. The road, used by heavy traffic and light vehicles of the BTC Co. and its contractors is in the immediate vicinity of the Atskuri Cathedral of Mother of God, and it passes over some underground facilities of the cathedral complex. As a result of this traffic the Atskuri Cathedral of Mother of God has been damaged.

The local population confirmed the fact that at first BTC Co. planned to build a bypass, avoiding the cathedral. They have stated that the company has

marked the proposed route and made verbal agreements with the affected landowners; however, the discussed road was not constructed.

Both the Atskuri Fortress and the Atskuri Cathedral of Mother of God completely correspond to the UN and World Bank definitions of cultural heritage that imply archaeological, paleontological, historical, religion and unique natural values. The WB recognises the concept of cultural heritage and does not fund projects which cause any significant damage to cultural heritage.¹⁷³ At the same time, the WB commits active support to the protection of cultural heritage¹⁷⁴ and states that the costs of these activities should be integrated into the overall costs of the project.¹⁷⁵

Atskuri villagers have brought the Fortress and Cathedral issue to public scrutiny through national media, as well as raising their concerns with BTC Co. , with the IFC's Compliance Ombudsmen, as well as with the UK's National Contact Point for the OECD Guidelines. However, the situation has not changed. According to the Atskuri villagers: "Mr Lawson, the UK National Contact Point for the OECD Guidelines, visited Atskuri village in September 2005, no-one from BP, BTC, NGOs employed by BP or BTC, individuals representing BP/BTC or government officials have contacted us to investigate either concerns regarding Atskuri Fortress and Church damage by BTC Co. trucks nor individual cases of the villagers raised during Mr Lawson's visit."

BTC Co. hired an independent consultant company to assess the overall damage from vibration, as Atskuri village has not been the only one to raise concerns regarding the drastic vibration impacts. According to the report, BTC Co. vibration monitoring "has shortcoming in the adequacy of the monitoring when subject to international scrutiny, construction vibration was unlikely to be the cause of cracking buildings"¹⁷⁶. This conclusion also represents the basis for IFC CAO to close the Atskuri villagers' complaint regarding damage

¹⁷³ "The United Nations term 'cultural property' includes sites having archeological (prehistoric), paleontological, historical, religious, and unique natural values. Cultural property, therefore, encompasses both remains left by previous human inhabitants (for example, middens, shrines, and battlegrounds) and unique natural environmental features such as canyons and waterfalls. The rapid loss of cultural property in many countries is irreversible and often unnecessary". World Bank OP.11.03

¹⁷⁴ "The Bank will assist in the protection and enhancement of cultural properties encountered in Bank financed projects, rather than leaving that protection to chance. In some cases, the project is best relocated in order that sites and structures can be preserved, studied, and restored intact in situ. In other cases, structures can be relocated, preserved, studied, and restored on alternate sites". World Bank OP.11.03

¹⁷⁵ "Such activities should be directly included in the scope of the project, rather than being postponed for some possible future action, and the costs are to be internalised in computing overall project costs". World Bank OP.11.03

¹⁷⁶ Traffic Vibration Monitoring Assessment, January 2006, Mott MacDonald, AGT Pipelines Project.

to cultural monuments by BTC Co.¹⁷⁷

In the process of the preparation of the BTC ESIA report, the IFC noted that detailed studies were conducted with the purpose of protecting cultural heritage, and that detailed plans for the management of cultural heritage were prepared.¹⁷⁸ Yet in the case of Atskuri Fortress and Atskuri Cathedral, the WB Operational Policy (11.03) has not been complied with. The BTC Co. did not comply with the requirements of IFC policy and did not prepare a cultural heritage management plan for Georgia.¹⁷⁹

In the ESIA report it is emphasised “only in rare cases it is possible to replace or reconstruct the monument without any harm to its scientific or social value. It is preferred to avoid the historical monuments and its correct protection.” Since a cultural heritage management plan was not developed for Georgia and attention was focused on archaeological problems (which is confirmed by the Protocol on Archaeological Findings for Georgia), damage to the Atskuri Fortress and Atskuri Cathedral of the Mother of God in the process of construction has taken place. The potential impacts to these monuments by the operation of the BTC pipeline are not yet known, as there are no results from relevant expert examination.

According to the ESIA report, cultural heritage in Georgia was studied in detail and it was noted that in Georgia, 273 historically significant sites were identified in the pipeline corridor, among which 54 are archaeological sites and 219 historical monuments. “Among the archaeological monuments, there are sites on the former and current routes and historical monuments which suggest architectural ruins within the 10 km-width corridor.”¹⁸⁰ Unfortunately there are neither maps nor documents on the impacts of the pipeline construction and operation on these 219 historical monuments.

At the request of the BTC Co., “ICOMOS” listed 22 historical monuments which are located in the immediate vicinity of the oil pipeline. According to the reports, four of them – the Atskuri Fortress, the Atskuri Cathedral of God Mother, the Sakire Fortresses and the Tadzrisi Monastery – have been significantly damaged by construction and require urgent help.

The Ministry of Culture, Monuments Protection and Sport requires BTC Co. to move forward with the conservation of the Tadzrisi Monastery (tenth century), where the BTC Co.’s heavy trucks are using the village-cart road, located 150 metres from the monastery. The Tadzrisi villagers testify that during the

¹⁷⁷ The very same report underlines that “The monitoring at Atskuri castle was carried out outside the calibration period of the instrument”.

¹⁷⁸ See www.ifc.org, Project information.

¹⁷⁹ See Environmental and Social Action Plans – Management Plans of the BTC Co. include only Protocol of Archaeological Findings for Azerbaijan and Protocol of Archaeological Findings for Georgia.

¹⁸⁰ BTC ESIA, Georgia Chapter 8.

last two years the monastery has experienced intensive damage.¹⁸¹ According to the lender's Social Panel, the decision made for the conservation of the Tadzrisi Monastery is not the mitigation of adverse project impacts, but as community/public relations work.¹⁸² According to BTC Co. reports, ICOMOS carefully cleaned, stabilised and reconstructed the ruined St. George church (Tenth century), the one of the element of Tadzrisi Monastery.¹⁸³

¹⁸¹ Report of Rustavi-2, February 22, 2005

¹⁸² Georgia SRAP Review, February 2005, www.caspiandevlopmentandexport.com

¹⁸³ www.bp.com/liveassets/bp_internet/bp_Caspian.en/STAGING/localassests/downloads_pdfs/e/10_2005_Q4_Case_Study_10_3_Sr_George_Church_Tadzrisi.pdf

**Part IV. IFIs' public participation process –
the path to democratisation?!**



1. Flawed public participation project

The public participation process and the so-called added value brought by the involvement of the IFIs remains very much in doubt. While the project sponsor claims that it provided well in advance people with adequate information, the array of problems raised during the project's implementation confirmed the flawed character of the initial consultations.

As with any large infrastructural project, the various problems that have occurred during the BTC construction process are natural. Nevertheless, the situation is complicated by the attitude that exists towards the project. Any person or organization that tries to criticise the pipeline construction process or even refer to the inadequate information provided by the company (or other parties to the project) is automatically labeled an enemy of the state who is trying to hamper a politically important project.

The Environmental and Social Impact Assessment prepared by BTC Co. raised many questions even before the IFC and the EBRD became formally involved in the project preparation stage. In May 2002, BTC Co. presented the ESIA documentations for public disclosure within the countries claiming that they had been prepared according to the IFC and EBRD Safeguard policies. According to BTC Co., the World Bank Safeguard Information disclosure policy laid the foundation for the public participation process in all three countries of operation. However, it turns out that the project has failed to satisfy the above-mentioned World Bank Policy, as well as IFC guidelines described in "Doing Better Business through Effective Public Consultation and Disclosure".

The EBRD's and IFC's involvement and influence could not manage to shift the emphasis from these political and commercial expedients. During the joint 120 day consultation period in summer 2003, the IFIs held two public meetings in each of the transit countries. However, despite the fact that each of the meetings cost around USD 400-500 000, most of the concerns raised during the consultations went unanswered.

The information regarding the public meetings and the possibility to comment on the project were very limited available for the people living in the regions of the country, where access to the internet (that has been highly promoted by IFIs and BTC Co) and even to newspapers is extremely limited. Information centres where the disclosed information was available were not prepared to invite citizens earlier than in August. For example in July that year, the public relations employees of Baku Enterprise Center, as well as those of the BP company, had not been informed that in their administrative buildings were some publicly accessible documents and were equally unable to provide any relevant information about the issue. Thus, if some NGO or general public representative lacking in experience tried to check the information offices before the end of July, they came away empty-handed.

Taking into account the number of participants and the general interest of people to deliver their thoughts to the decision-makers, the meeting facilitators were forced to give each person the opportunity to speak only for 2-3 minutes and there was the possibility to ask only one question. Often the facilitator asked individuals to go directly to the question, and not to make any comment, taking into account the amount of the people that want to ask question. When people were not satisfied with the answer forthcoming, the suggestion was made to discuss the issues privately.

The public meetings in Georgia clarified that while the people are the best informed about the BTC pipeline project in comparison with people in Azerbaijan and Turkey, there were still a number of questions that needed to be clarified. These included a variety of issues starting with problems of land compensation and associated corruption and violence, compensation in case of oil spill, the problems that the BTC pipeline will create for biodiversity and a number of local businesses, oil revenues distribution and the incomes of the state budget.

However, there were clear breaches of the EBRD's environmental policy and the IFC's best practice manual, IFC 4.04 policy, as there was no evidence of "meaningful participation"¹⁸⁴, due to the fact that no external expert opinion or public comments were taken into account. This includes the so called "foreign"¹⁸⁵ experts such as the Dutch EIA Commission or western companies hired by stakeholders, as well as local scientists.

The project sponsor failed "to take into account the views, roles and rights of groups, including NGOs and local communities, affected by IFC financed project involving natural habitats, and to involve such people in planning, designing". In a number of cases BTC Co. failed to involve major stakeholders, like in the case of the Borjomi area: namely, GG&MW Company, Borjomi Natural Park administration and WWF Caucasus.

Information regarding the BTC pipeline in newspapers in Azerbaijan and Georgia was actually reduced to the point that the EBRD and IFC would go ahead and finance the ACG project, because it would fulfill all necessary international standards as well as the IFIs' policies and because it would improve the social conditions of the populations in all three affected countries. These articles were often based on the statements of EBRD and IFC representatives during press conferences in connection with the public hearings. It should be said that in their statements the EBRD and IFC promoted the AGT pipeline project much more than was necessary and it was not only journalists who came to the conclusion that the IFIs' decision on funding the pipelines project was a *fait accompli*.

One of the public hearings took place in the highly disputed Borjomi region, Georgia. As with so much of the Bank's effort to reach out to BTC affected

¹⁸⁴ EBRD Environmental Policy.

¹⁸⁵ The fact that the opinion has been brought by BTC Co. based on "Foreign expert" becomes one the additional argument during the discussions.

communities, the good intentions of the exercise were undermined by the selective and orchestrated way in which it was carried out. Several weeks later, local people were on the receiving end of harsh treatment from police called in to break up a peaceful demonstration against the pipeline, an incident not isolated to Borjomi.

According to the IFC, during the public participation process: “It was difficult to strike a balance between listening to civil society organisations and communities and providing detailed responses to concerns raised. Detailed responses provided on the spot may have sometimes given the impression of defending the project as a *fait accompli*.” And in reality it was and it is a *fait accompli*, with IFI project staff rather defending the BP representatives' positions, instead of providing the proper due diligence and consequently answers to civil society and communities.

Public participation in Georgia

In Georgia issues related to the approval of the ESIA and the necessary environmental permission for construction raised lots of the questions and concerns, unbelievable high level pressure on the Georgian government and resulted in the violation of a number of Georgian environmental laws.

Despite the fact that Operational Policy 4.04 of the IFC clearly states that the “IFC does not support projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting, and comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs”, the pipeline corridor chosen by BP crosses several highly environmentally sensitive areas, including the Borjomi Valley and the Tsalka underground water reserves, both of which are protected by Georgian law and EC directives¹⁸⁶.

The Dutch Commission for Environmental Impact Assessment¹⁸⁷, World Bank hired experts, Georgian scientists, and local and international NGOs believe that the BTC pipeline route poses the greatest environmental threat where it crosses the Borjomi Valley in central Georgia. The Borjomi Region is one of the most well known tourist destinations in the former Soviet Union and the most popular resort in Georgia, famous for its rich biodiversity and world-renowned mineral waters, which account for approximately ten percent of Georgia's exports. The Borjomi Valley also functions as a support zone for Borjomi-Kharagauli National Park, which is managed by the World Wide Fund for Nature with support of the German government. Pipeline construction in this region will therefore affect not only its biodiversity and

¹⁸⁶ “According to the ESIA’s, neither the IGA nor the individual Host Government Agreements (HGAs) nor the Environmental and Social Impact Assessment define the meaning of the phrase “European standards”. Although BTC Co’s Human Rights Undertaken specifically equates “European standards” with “European Union Directives”, the document does not form part of the legal regime for the project. BTC Co has therefore replaced the clear-cut, legally binding framework provided by enforceable host government legislation with a floor that lacks legally-enforceable definition” – *Turbo Charging Investor Sovereignty*, by Nicholas Hidayard and Greg Muttitt, 2006.

¹⁸⁷ Official advisor for Georgia’s Ministry of Environment.

tourism industry, but also the mineral water industry, which currently employs 25 percent of the Borjomi area population.

All of these concerns have been presented to BTC Co. and the IFIs. In Georgia BTC Co. received more than 3000 comments, most of them questioning the proposed pipeline route through Borjomi. The Dutch Commission for Environmental Impact Assessment issued an advisory review that questioned BP's route selection, called for reconsideration of alternative routes that avoid environmentally sensitive areas, advocated alternative routes that almost completely avoid the Borjomi-Bakuriani area and stated that BP's assessment of the possible routes is unclear and incomplete. BP continued to ignore the public's concern and remained stubbornly opposed to alternative routes for the pipeline.

Pressure from BP, however, forced the Georgian government to hastily accept the route favoured by the oil companies. In a letter to Georgian President Eduard Shevardnadze dated November 7, 2002, David Woodward, Associate President of BP Azerbaijan warned that "without this timely approval we cannot move forward with the construction phase" and suggested the position the Georgian government should take, stating that "it may be necessary to inform experts who visit with [President Shevardnadze] in the coming weeks that [alternative] routes through this district are and will remain unacceptable." The letter stressed the need to approve the ESIA by November 30.

The US special adviser to the Caspian region, Steven Mann, who was supposedly to mediate between BP and the Georgian government, directly stated: "The agreed route of the oil pipeline goes through the Borjomi Gorge. If approval of this project is delayed any further, I cannot see any opportunity for the implementation of other projects in Georgia".¹⁸⁸

Meanwhile, Georgian Minister of Environment Nino Chkhobadze, wrote a letter to BP Chief Executive Lord John Browne on November 26, 2002, in which she stated: "BP representatives are requesting the Georgian government to violate its own environmental legislation. Although all possible alternatives to the Borjomi Valley were not studied in the BTC ESIA, and despite BTC's own experts' opinions on the risks of taking this route, we are now told that it is impossible to consider alternatives to the Borjomi Valley route."

Despite prolonged negotiations between BP and the Georgian Ministry of Environment, accompanied by public protests, the Ministry of Environment finally issued permission for pipeline construction owing to persistent pressure from the side of the Georgian president¹⁸⁹ and the US government. According to Shevardnaze, "The president takes final decisions and I take responsibility for this decision [construction of pipe via Borjomi]".¹⁹⁰

¹⁸⁸ "Georgian Minister under pressure to back pipeline impact report", *BBC Monitoring Services*, November 25, 2002.

¹⁸⁹ "The day of the deadline, the Georgian president called the Minister into his office, and kept her there until she signed, which was at about 4 o'clock in the morning" – *AFP*, "Georgia approves \$2.9 bn oil pipeline", December 2, 2002.

¹⁹⁰ Go-ahead Given to BTC, Political Agenda Overshadows Environmental Concerns, by David Nozadze, *Civil Georgia*, www.civil.ge

2. International NGO community demands

CEE Bankwatch Network, together with a number of other NGOs, has been calling on the IFC and EBRD to refrain from funding the BTC oil pipeline project until a number of political, social, developmental and security concerns are adequately resolved. While the IFC as part of the World Bank group has been set up to fight poverty, the EBRD according to its charter is supposed to play an important role in promoting democratic principles in its countries of operation, and actually to insist on the protection of basic human rights, freedom of speech, and democracy in relation to the development of this project.

Among the unresolved issues that NGOs have are questions related to transparency, corruption, the uncertain impact of the HGAs on the affected countries' further development, and the pipeline's environmental, health and social impacts. In the meantime, it was clear that the national governments and project sponsor continued with "business as usual", securing their interests at the expense of the political and socio-economic rights of ordinary citizens.

Among the issues that international and national groups brought to the attention of the IFC and EBRD were issues related to the non-availability of key documents such as **relevant production sharing and transit agreements**, studies on the macro-level implications of the BTC project, the non-existence of benefits for local people, the failure of a full and comprehensive assessment of the BTC project's impacts on ethnic minorities along the pipeline route, the lack of independent and effective oversight of the Azeri Oil fund, existing high levels of corruption, the weak and low quality of the project's Environmental and Social impact assessment, along with the failure to assess the long-term climate implications of the BTC project.

NGOs demanded the **disclosure of the macro-level impact studies undertaken** by the project sponsors and their submission to a full and timely consultation exercise with interested parties, compliance with the World Bank's Safeguard policies, independent oversight of the Azeri Oil Fund, including civil society representation, mandatory implementation of social programs to supply local communities with sustainable and affordable sources of energy, independent assessment of security implications of the proposed pipeline and environmental impact assessment.

Most of the issues remained unsolved even at the end of 2003 when IFC and EBRD decided to give the green light to BTC Co., thus laying the foundation to ongoing violations of environmental and social obligations undertaken by BTC Co., problems with the violation of affected people human and socio-economic rights, **the increased use of police forces to break up peaceful demonstrations held by villagers in Georgia**, the monitoring of the correspondence of Azeri activists, the underpaying of local construction workers and violations of International Labour Organisation standards, a number of BTC affected communities still waiting for compensation and widespread cases of corruption

during the land compensation process, polluted drinking water sources despite the use of the "highest standards", and the discovery of cracked pipes that could potentially cause massive environmental damage.

The BTC project can be considered the first case where in response to wide NGO community demands the production sharing agreement between Azerbaijan and the oil companies' consortium on Azeri-Chirag–Guneshli, an Inter Governmental Agreement and Host Governmental Agreements among the project sponsors and countries have been made available.¹⁹¹ While on one side this was a positive step, with the establishment of a website www.caspiandevelopmentexport.com¹⁹² to give more clear and propaganda free information to the public, the outcomes of the transparency of the documentation placed the international banks in rather difficult position.

According to the IFC "disclosure of PSAs and HGAs gave those diametrically opposed to the project more material to challenge the project. It also opened up lenders and the sponsors to seemingly unending queries – some by un-informed groups, who put their own interpretation on complex documents". However, the same bank acknowledged the fact that there were major difficulties between sponsors and governments due to "the fact that the agreements were difficult to absorb and sometimes unclear to led to confusion". It is still questionable whether without the publication of the HGAs and PSAs that the lenders would even have considered problems like human rights or the economic equilibrium.

Public participation in Turkey

Public consultations require freedom of expression. However, despite the status of Turkey as an EU accession country, freedom of the speech and human rights protection are far from being at a satisfactory level. Taking into account the fact that, in Turkey, the BTC pipeline will run through some of the country's most politically volatile regions, including its Kurdish southwest, where, the government has been engaged in a decades-long war with Kurdish rebels, and has been accused of many human rights violations. International fact-finding missions¹⁹³ found the violation of public consultation process in Turkey through skewed and incomplete consultation questionnaires that prevented people from expressing their concerns especially due to the failure to take into account the limitations which Turkey's political practices put on freedom of expression. The insufficiency of the distributed project information also did not help to facilitate an adequate public participation process. The project website set up by BTC Co. does not work in cases like Turkey,

¹⁹¹ Despite the publication of the PSA between the Azerbaijan Government and the Azerbaijan International Oil Company (AIOC) in 1994.

¹⁹² Since April 2006 the website has been abandoned. The materials from the site in English and Azerbaijan have been transferred to the BP corporate web site, while Georgian, Russian and Turkish material is no longer available.

¹⁹³ International Fact Finding Mission Report, 2002, available on www.bankwatch.org

Azerbaijan or Georgia, where most people have no access to basic services. Almost half of the villages along the pipeline route were never consulted by BTC Co/BOTAS despite claims that people were consulted. One village, Həşibeyram, listed as consulted by telephone, had been abandoned for several years. Even in those villages which had been visited, confusion, uncertainty and unrealistic expectations abounded. The larger community meetings organized by BTC Co/BOTAS were organized in the form of lectures with brief information on the EIA, leaving the villagers with lots of unanswered questions regarding expropriation, compensation, tree-planting or construction over the pipeline, safety, employment and payments to the state.

The public disclosure period ended on October 14, 2003. Meanwhile, the staff report to the Board of Directors of the World Bank for the meeting of the Board was dated the same day. As a result it should not be surprising that in its public response to BTC pipeline ESIA comments the IFC management stated that: "Some submissions from certain NGOs were very lengthy and sought to analyze in-depth each and every IFC policy or procedural compliance or non-compliance from their perspective". This statement is evidence of the fact that IFC does not welcome the input of the NGO community in such a consultation process. **Further, IFC admitted that the intention from the beginning was not to review and discuss comments and reports**¹⁹⁴ submitted by NGOs, "Since most public comments are received at the very end of the disclosure period, if a project is scheduled for Board consideration soon thereafter, there may not be sufficient time to prepare a response to the comments. This issue should be examined in the IFC's upcoming Disclosure Policy revision."¹⁹⁵

The IFC's "BTC lessons learned" paper stated also: "increasingly sophisticated NGOs launch campaigns attacking the commercial, economic and legal basis of the projects rather than just environmental and social issues. NGOs now often hire lawyers, financial analysts and engineers to critique." From this perspective the IFC learned the lesson that it "must acknowledge certain information as commercially sensitive if we are to stay in the commercial realm. One way to accomplish this is to distinguish information related to public funds/goods versus private contracts and commercial cost structures".

This theme was continued during the IFC Executive Directors Board meeting to decide on the BTC pipeline project: "one speaker commented that

¹⁹⁴ Review of the Environmental Impact Assessment for the Baku-Tbilisi-Ceyhan oil pipeline (Turkey Section) October 2003; Amis de la Terre (France); Baku Ceyhan Campaign (UK); Campagna per la Riforma della Banca Mondiale (Italy); CEE Bankwatch Network (Central & Eastern Europe); The Corner House (UK) Environmental Defense Fund (USA); Friends of the Earth (England, Wales & Northern Ireland); Friends of the Earth Japan; Green Alternative (Georgia); Halifax Initiative (Canada); Kurdish Human Rights Project (UK); Milieudefensie (Netherlands); PLAT-FORM (UK); Urgewald (Germany); WEED (Germany).

¹⁹⁵ Azerbaijan Republic, Georgia Turkey ACG Phase 1/BTC pipeline projects - lessons learned, IFC/SEC M 2004- 0022, April 16, 2004.

postponements of board decisions tended to give rise to headlines . One speaker suggested the ranking of NGOs”¹⁹⁶.

It should be mentioned that the NGO concerns to a significant extent were shared by a number of BP investors¹⁹⁷, including Fund Insight, Henderson Global Investors, the Cooperative Insurance Society, Isis Asset Management, the Gartmore and Jupiter fund, Cazenove and Dresdner Kleinwort Wasserstein investment banks. Rory Sullivan of Insight described the shareholders' meeting in November 2003 as “somewhat unsatisfactory”, and said he was still waiting for answers to specific questions.¹⁹⁸ Banca Intesa pulled out from the project and sold all of its shares at the end 2004. According to a number of sources, Banca Intesa, which agreed to participate in BTC only because of the involvement of the World Bank, was “very disturbed” at the Bank's lack of due diligence on the pipeline project.

Public participation in Azerbaijan

It should be mentioned that in Azerbaijan the construction of the BTC pipeline and the IFC/EBRD public disclosure process became one of the main pillars of Ilham Aliyev's presidential campaign, as he emphasised the pipeline's significance for Azerbaijan's economy and international relationships. Aliyev's views on the BTC pipeline were presented during TV speeches, in promotional clips, posters in the streets etc.

It needs to be asserted that Azerbaijan is not a democratic country and people are afraid to express their opinion freely. Following the televised speech of Prime Minister Ilham Aliyev in the beginning of 2003 (“it is necessary to deal with opponents of the BTC pipeline”), people were afraid to make any critical statements regarding BTC. Local media compounded this atmosphere: opponents of BTC were denounced as Armenian interest promoters, supporters of Kurdish terrorists and wreckers of national welfare. As an outcome, the offices of two NGOs in Baku (focused on human rights issues) which made critical statements about the AGT project were attacked by a fanatical crowd, with policemen standing by observing. That is why there are many reservations about public discussion of AGT in Azerbaijan. In short, the timing of the public consultation period at the same time as the election campaign and its interconnection resulted in too many manipulations and populist statements on AGT project, blocked factual discussion and discouraged the public from making critical statements or remarks about the project.

Azerbaijan's oil resources were the main leading force when in autumn 2003, soon after the IFC and EBRD's so-called public participation process, the international community successfully failed to condemn the vote fraud and the accompanying crackdown on opposition activists.

¹⁹⁶ Summary of Discussion at the Meeting of the Board of Directors of IFC, November 4, 2003

¹⁹⁷ “Investors' fury over BP pipeline”, Patrick Tooher, Daily Mail, November 16, 2003.

¹⁹⁸ Italy's largest bank, Banca Intesa, decided to sell its USD 60 million stake in BP's controversial Baku-Tbilisi-Ceyhan (BTC) oil pipeline at the end of 2004.

Some conclusions

The BTC pipeline construction may now be complete, but there is still unfinished business around the pipeline construction, with significant social and environmental damage. Many people living along the route feel themselves to be at high risk or are disappointed with the fact that the promises that the pipeline would bring development, poverty eradication and democracy have been broken.

The IFIs still rigidly maintain that the BTC pipeline project represents a model of development and poverty alleviation. The fact that there was integration of the IFC's and the EBRD's safeguard policies in the planning process is not automatically reflected in the implementation of the project and the ability to alleviate the project-related environmental and social problems. The banks approved many irregular practices and have chosen to ignore civil society concerns. In the long term, there are serious concerns about the HGA's adverse impact on future sustainable development of the region.

On one occasion, one of the BTC project team members from the IFC said to the NGOs that they are creating such a high level of fuss about existing problems, when there is only 30 percent of the population that is directly affected and disappointed by a project that runs for 1770 km. The oil pipeline that has impacted negatively only 30 percent of the affected population may look like a success in project documents in Washington D.C or London offices. For the people in the region, however, these are real troubles, increased headaches and plummeting livelihoods. However, it appears that such people as well as the local environment are generally missing in official and semi-official reports that highlight the importance of the pipeline for the Caucasus and US, praising BP's "high" social and environmental standards, performance and so on.¹⁹⁹

To overcome the major shortcomings of the BTC pipeline the IFC and EBRD should recognise their responsibility for a project that is already failing to demonstrate a positive local and regional development impact and that may have a disastrous environmental impact due to poor construction quality and bad practice. It is also crucial that the banks commence an adequate, independent review of commitments undertaken in the BTC project documentation as well as compliance with globally recognised best practice.

The banks should encourage and support progress in democratic development and respect for human rights, and increase public participation in the decision-making process rather than rewarding bad practice further. This should include an independent recourse mechanism to resolve ongoing disputes between affected people and BTC CO., as well as independent monitoring mechanisms to protect the human rights of local people.

The BTC oil pipeline can be summarised as a typical case with typical outcomes very similar to those oil pipeline project cases reviewed during the Extractive Industries Review Process commissioned by the World Bank. However, the World Bank itself is opposed to implementing the EIR recommendations and continues to believe the mantra that the development of oil projects supports poverty alleviation and democracy. The failure of the banks to consider the concrete realities on the ground, as they continue to develop large infrastructural and oil and gas projects in the Caspian region, perpetuates the harmful consequences for the poor and the environment.

¹⁹⁹ The best website for this purpose is www.silkroadstudies.org

Abbreviations

- BP** - British Petroleum
BTC - Baku-Tbilisi-Ceyhan Oil Pipeline
BTC Co – Baku-Tbilisi-Ceyhan Oil Corporation
CDAP – Caspian Development and Advisor Panel
CLO – Community Liaison Officer
EBRD – European Bank for Reconstruction and Development
EIA – Environmental Impact Assessment
ESIA – Environmental and Social Impact Assessment
ETIB - Energy Transit Institutional Building Project
HGA - Host Government Agreement
IFC – International Financial Corporation
IFI – International Financial Institution
IGA – Intergovernmental Agreement
MEP – Main Export Pipeline
MOE – Ministry of Environment Protection and Natural Resources
NGO – Non-governmental organisation
OECD – Organisation for Economic Co-operation and Development
RAP – Resettlement Action Plan
ROW – Right of Way
SCP – South Caucasus Gas Pipeline
SLIP – Supplementary Lenders Information Pack